

# The Law of Adoption In Connecticut

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*A Guide to Resources in the Law Library*

Compiled

by

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Connecticut Judicial Branch  
Law Libraries

**2004-2005**

“All light is valuable on a darken path.”  
DeQuincy

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These guides are provided with the understanding that they  
represent only a starting point to legal research.

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# CHAPTER 1

# Termination of Parental Rights (TPR)

*A Guide to Resources in the Law Library*

**Adoption and termination of parental rights:** “[I]t is clear that adoption cannot proceed unless the parents’ rights are terminated in the first instance. The converse is not true. The parents’ rights can be terminated without an ensuing adoption . . . [T]here are circumstances wherein termination of a parent’s rights is not followed by adoption.” *In re Theresa S.*, 196 Conn. 18, 30-31, 491 A.2d 355 (1986).

**Termination of parental rights:** “means the complete severance by court order of the legal relationship, with all its rights and responsibilities, between child and his parent or parents so that the child is free for adoption except it shall not affect the right of inheritance of the child or the religious affiliation of the child.” CONN. GEN. STAT. §§ 45a-707, 17a-93 (2003).

## Sections in this chapter

### § 1.1 RIGHTS OF PARENTS

- § 1.1a Rights of parents in general
- § 1.1b Right to counsel
- § 1.1c Standard of proof
- § 1.1d Equal protection of the laws
- § 1.1e Notice and opportunity to be heard

### § 1.2 TERMINATION BY CONSENT

### § 1.3 GROUNDS (NONCONSENSUAL)

- § 1.3a Abandonment
- § 1.3b Acts of parental commission or omission
- § 1.3c No ongoing parent-child relationship
- § 1.3d Neglected and Uncared for
- § 1.3e Failure to rehabilitate
- § 1.3f Parent has killed or committed an assault
- § 1.3g Parent convicted of sexual assault resulting in conception of the child

### § 1.4 PROCEDURES IN TPR

- § 1.4a Jurisdiction
- § 1.4b Petition for TPR
- § 1.4c Parties and Standing in TPR proceedings
- § 1.4d Notice
- § 1.4e TPR hearing
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- § 1.4g Statutory factors
- § 1.4h Motion to open or set aside
- § 1.4i Appeals to Appellate Court
- § 1.4j Standards of Appellate review

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Table 1 Rights of the remaining parent in TPR  
Table 2 Foster parents and TPR  
Table 3 Best Interest of the Child Standard in TPR  
Table 4 Consent to TPR within 48 hours of birth or by minor  
Table 5 ALR Annotations on Factors in TPR  
Table 6 Proof of Grounds for Terminating Parental Rights  
Table 7 Statutory Parent  
Table 8 Who May Petition for TPR

## See Also:

*APPENDIX A VISITATION FOR BIRTH PARENT OR BLOOD RELATIVE AFTER TERMINATION OF PARENTAL RIGHTS*

# § 1.1 Rights of Parents

- “The fundamental liberty interest of natural parents in the care, custody, and management of their children does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life. If anything, persons faced with forced dissolution of their parental rights have a more critical need for procedural protections than do those resisting state intervention in to ongoing family affairs.” Santorsky v. Kramer, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed 2d 599 (1982).
- “When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.” Santorsky v. Kramer, 455 U.S. 745, 753-754, 102 S.Ct. 1388, 71 L.Ed 2d 599 (1982).
- “[W]e recognize that ‘the right of parents qua parents to the custody of their children is an important principle that has constitutional dimensions,’ a principle echoed and illuminated in recent years by decisions of the United States Supreme Court and of this court.” In Re Juvenile Appeal (Docket No. 10155), 187 Conn. 431, 435, 446 A.2d 808 (1982).
- “Termination of parental rights is a judicial matter of exceptional gravity and sensitivity. Anonymous v. Norton, 168 Conn. 421, 430 362 A.2d 532 (1975). Termination of parental rights is the ultimate interference by the state in the parent-child relationship and, although such judicial action may be required under certain circumstances, the natural rights of the parents in their children ‘undeniably warrants deference and, absent a powerful countervailing interest, protection.’ Stanley v. Illinois, 405 U.S. 645, 651 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972); In re Juvenile Appeal (Anonymous), 177 Conn. 648, 671 420 A.2d 875 (1979).” In Re Emmanuel M., 43 Conn. Sup. 108, 112, 648 A.2d 904 (1993)

## Section 1.1a

# Rights of Parents in TPR

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to the rights in general of parents and foster parents in termination of parental rights cases in Connecticut as of January 1, 2003.
- DEFINITIONS:**
- **Fourteenth Amendment** to the U.S. Constitution: “. . . nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
  - **Due Process:** “freedom of personal choice in matters of . . . family life is one the liberties protected by the Due Process Clause of the Fourteenth Amendment.” Cleveland Board of Education v. LaFleur, 414 U.S. 632, 639-640, 94 S. Ct. 791, 39 L. Ed. 2d 52 (1974).
  - **Equal protection of the laws:** “The guaranty of equal protection of the laws ensures that the laws apply alike to all in the same situation, or that similar treatment is afforded to those in similar circumstances.” In re Nicolina T., 9 Conn. App. 598, 606 (1987).
- STATUTES:**
- CONN. GEN. STAT. (2003).
    - Chapter 319a. Child welfare
      - § 17a-112. Termination of parental rights of child committed to commissioner.
    - Chapter 803. Termination of parental rights and adoption
      - § 45a-708. Guardian ad litem for minor or incompetent parent
      - § 45a-715. Petition to terminate parental rights
      - § 45a-716. **Hearing on petition to terminate parental rights. Notice**
        - (b) The court shall cause notice of the hearing to be given to the following persons as . . . (2) the father of any minor child born out of wedlock, provided at the time of filing the petition (A) he has been adjudicated the father of such child by a court of competent jurisdiction, or (B) he has acknowledged in writing to be the father of such child, or (C) he has contributed regularly to the support of such child, or (D) his name appears on the birth certificate, or (E) he has filed a claim for paternity as provided under section 46b-172a, or (F) he has been named in the petition as the father of the child by the mother . . . If the recipient of the notice is a person described in subdivision (1) or (2) or is any other person whose parental rights are sought to be terminated in the petition, the notice shall contain a statement that the respondent has the right to be represented by counsel and if the respondent is unable to pay for counsel, counsel will be appointed for the respondent.
      - § 45a-717. Termination of parental rights. Conduct of hearing, Investigation and report. Grounds for termination
        - (a) At the hearing held on any petition for the termination of

parental rights . . . any party to whom notice was given shall have the right to appear and be heard with respect to the petition.

§ 45a-719. Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption.

**COURT RULES:**

- CONN. PRACTICE BOOK (2003)  
Chapter 32a. Rights of parties neglected, uncared for and dependent children and termination of parental rights
  - § 32a-1. Right to counsel and to remain silent
  - § 32a-2. Hearing procedure; Subpoenas
  - § 32a-3. Standards of proof
  - § 32a-4. Child witness
  - § 32a-5. Child in the court
  - § 32a-6. Interpreter
  - § 32a-7. Records
  - § 32a-8. Use of confidential alcohol and drug abuse treatment

**CASES:**

- In re Jeisean M., 74 Conn. App. 233, 240-241, 812 A2d 80 (2002). "Accordingly, we hold that in deciding an application for a waiver of fees, costs and expenses pursuant to Practice Book § 63-6 in a termination of parental rights proceeding, the factors to be weighed by the trial court are limited to a consideration of whether the applicant has a statutory right of appeal pursuant to General Statutes § 52-263 and whether the applicant is indigent."
- Roth v. Weston, 259 Conn. 202, 231, 789 A.2d 431 (2002). "We recognize that due process requires the clear and convincing test be applied to the termination of parental rights because it is the complete severance by court order of the legal relationship, with all its rights and responsibilities . . . ."
- Stanley v. Illinois, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972). "The private interest here, that of a man in the children he has sired and raised, undeniably warrants deference and, absent a powerful countervailing interest, protection."
- Quilloin v. Walcott, 434 U.S. 646, 255, 98 S.Ct. 549, 54 L.Ed.2d 511 (1978). "But this is not a case in which the unwed father at any time had, or sought, actual or legal custody of his child. Nor is this a case in which the proposed adoption would place the child with a new set of parents with whom the child had never before lived. Rather, the result of the adoption in this case is to give full recognition to a family unit already in existence, a result desired by all except appellant."
- Prince v. Massachusetts, 321 U.S. 158, 166, 64 S. Ct. 438, 88 L. Ed. 645 (1944). "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."
- In re Luke, 40 Conn. Supp. 316, 326-327, 498 A.2d 1054 (1985). "It is the responsibility of all of the adults involved to give the children's interest top priority over their own emotional objectives, so that they may understand and benefit from the fact that they have two 'Daddies' who love them, that having two 'Daddies' is not 'too complicated' but is rather an enriching factor in their lives."

**WEST KEY NUMBERS:**

- *Constitutional law* # 274(5). Deprivation of personal rights in general. Privacy, marriage, family, and sexual matters
- *Infants* # 178. Evidence. Termination of parental rights

**DIGESTS:**

- *ALR DIGEST: Attorneys* § 35. Right to counsel and consultation  
Termination of parental rights
- CONNECTICUT FAMILY LAW CITATIONS: *Termination of Parental Rights*
- US L ED DIGEST: Constitutional Law § 803.5

**ENCYCLOPEDIAS:**

- 16B AM. JUR 2d *Constitutional Law* (1998).  
§ 955. Hearing. Character and sufficiency; in general—Presence of person; counsel
- 59 AM. JUR 2d *Parent and Child* (2002).  
§ 36. Loss or forfeiture of right  
§ 37. —Burden of proof
- Patricia C. Kussman, Annotation, *Right Of Indigent Parent To Appointed Counsel In Proceeding For Involuntary Termination Of Parental Rights*, 92 ALR5th 379 (2001).
- Wanda Ellen Wakefield, Annotation, *Validity Of State Statutes Providing For Termination Of Parental Rights*, 22 ALR4th 774 (1983).
- *Termination Of Parental Rights Based On Abuse Or Neglect*, 9 COA 2d 483 (1997).  
§ 24. Presumption and burden of proof

**TEXTS &  
TREATISES:**

- RALPH H. FOLSOM AND GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTION 3d (2001).  
Chapter 5. Adoption and Parental Rights  
§ 5:6. Termination of parental rights and appointment of guardian or statutory parent for adoption petition  
§ 5:7. Notice, guardian ad litem  
§ 5:8. Hearing, investigation and report, grounds for termination of parental rights, consent terminations
- 1 JOAN HEIFETZ HOLLINGER ET AL., ADOPTION LAW AND PRACTICE (2001).  
Chapter 2. Consent to adoption  
§ 2.10. Exceptions to the requirement of parental consent  
§ 2.10[2]. State courts and statutory examples
- 4 SANDRA MORGAN LITTLE, CHILD CUSTODY & VISITATION LAW AND PRACTICE (2002).  
Chapter 28. Termination of parental rights  
§ 28.02. Elements of the proceeding  
§ 28.02[2]. Constitutional limitations  
§ 28.03. Procedural protections  
[1]. Service of process  
[2]. Notification of charges  
[4]. Counsel for the parents  
[5]. Disclosure
- ANN M. HARALAMBIE, HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES (1993).  
Chapter 13. Termination of Parental Rights  
§ 13.18. Unmarried fathers

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 CONNECTICUT PROBATE LAW JOURNAL 269 (1996).  
II. Background  
E. The federal judiciary and constitutional issues, pp. 294-297

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**Table 1 Rights of the remaining parent in TPR**

<b>Rights of the Remaining Parent in TPR</b>	
CONN. GEN. STATS. § 17a-112(i) (2003) (partial)	“ Consent for the termination of the parental rights of one parent does not diminish the parental rights of the other parent of the child, nor does it relieve the other parent of the duty to support the child.”
CONN. GEN. STATS. § 17a-112(n) (2003) (partial)	“If the parental rights of only one parent are terminated, the remaining parent shall be the sole parent and, unless otherwise provided by law, guardian of the person.”
CONN. GEN. STATS. § 45a-717(i) (2003)	“If the parental rights of only one parent are terminated, the remaining parent shall be sole parent and, unless otherwise provided by law, guardian of the person.”

**Table 2 Foster parents and TPR**

<b>Foster Parents and TPR</b>	
<b>STATUTES</b>	<ul style="list-style-type: none"> <li>• “The Commissioner of Children and Families shall not discriminate in preparing a home study or in placing a child with a prospective adoptive parent based on whether the prospective parent is or is not willing to become a foster parent pending an adoption placement.” CONN. GEN. STATS. § 45a-726(c) (2003).</li> </ul>
<b>ENCYCLOPEDIAS</b>	<ul style="list-style-type: none"> <li>• Michael G. Walsh, Annotation, <i>Standing Of Foster Parent To Seek Termination Of Rights Of Foster Child's Natural Parent</i>, 21 ALR4th 535 (1983).</li> <li>• Kristine Cordier Karnezis, Annotation, <i>Validity And Enforcement Of Agreement By Foster Parents That They Not Attempt To Adopt Foster Child</i>, 78 ALR3d 770 (1977).</li> </ul>
<b>CASE ANNOTATIONS</b>	<ul style="list-style-type: none"> <li>• John F. Gillespie, Annotation, <i>Status And Rights Of Foster Children And Foster Parents Under Federal Constitution</i>, 53 L. Ed. 2d 1116 (1978).</li> </ul>

**Table 3 Best Interest of the Child Standard in TPR**

<b>Best Interest of the Child Standard in TPR</b>	
CONN. GEN. STATS. § 17a-112(p) (2003)	“The provisions of this section shall be liberally construed in the best interests of any child for whom a petition under this section has been filed.”
CONN. GEN. STATS. § 45a-706 (2003)	“The provisions of sections 45a-706 to 45a-709, inclusive, 45a-715 to 45a-718, inclusive, 45a-724 to 45a-734, inclusive, 45a-736, 45a-737 and 52-231a shall be liberally construed in the best interests of any child for whom a petition has been filed under said sections.”
CONN. GEN. STATS. § 45a-715 (2003)	<p><b>Postadoption agreements</b></p> <p>(i) If the Court of Probate determines that the child's best interests will be served by postadoption communication or contact with either or both birth parents, the court shall so order, stating the nature and frequency of the communication or contact. A court may grant postadoption communication or contact privileges if: (1) Each intended adoptive parent consents to the granting of communication or contact privileges; (2) the intended adoptive parent and either or both birth parents execute a cooperative agreement and file the agreement with the court; (3) consent to postadoption communication or contact is obtained from the child, if the child is at least twelve years of age; and (4) the cooperative postadoption agreement is approved by the court.</p> <p>(n) An adoptive parent, guardian ad litem for the child or the court on its own motion may, at any time, petition for review of communication or contact ordered pursuant to subsection (i) of this section, if the adoptive parent believes that the best interests of the child are being compromised. The court may order the communication or contact be terminated, or order such conditions in regard to communication or contact as the court deems to be in the best interest of the adopted child.</p>
CONN. GEN. STATS. § 45a-719 (2003)	<p><b>Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption.</b></p> <p>“ . . . For the purpose of this section, ‘best interest of the child’ shall include, but not be limited to, a consideration of the age of the child, the nature of the relationship of the child with the caretaker of the child, the length of time the child has been in the custody of the caretaker, the nature of the relationship of the child with the birth parent, the length of time the child has been in the custody of the birth parent, any relationship that may exist between the child and siblings or other children in the caretaker's household, and the psychological and medical needs of the child. The determination of the best interest of the child shall not be based on a consideration of the socio-economic status of the birth parent or the caretaker.”</p>

# Section 1.1b

## Right to Counsel

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to the right to counsel in termination of parental rights in Connecticut.
- DEFINITIONS:**
- “If a party appears without counsel, the court shall inform such party of the party’s right to counsel and upon request, if he or she is unable to pay for counsel, shall appoint counsel to represent such party. No party may waive counsel unless the court has first explained the nature and meaning of a petition for the termination of parental rights.” CONN. GEN. STAT. (2003) § 45a-717(b).
  - “The respondent’s due process rights are therefore properly determined by the balancing test of Mathews v. Eldridge, 424 U.S. 319, 334, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), employed by the United States Supreme Court in considering a parent’s right in termination proceedings to representation by counsel . . . ” In Re Juvenile Appeal (Docket No. 10155), 187 Conn. 431, 435, 446 A.2d 808 (1982).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - Chapter 319a. Child welfare
      - § 17a-112. Termination of parental rights of child committed to commissioner.
    - Chapter 803. Termination of parental rights and adoption
      - § 45a-715. Petition to terminate parental rights
      - § 45a-716. **Hearing on petition to terminate parental rights. Notice**
        - (b). . . If the recipient of the notice is a person described in subdivision (1) or (2) or is any other person whose parental rights are sought to be terminated in the petition, the notice shall contain a statement that the respondent has the right to be represented by counsel and if the respondent is unable to pay for counsel, counsel will be appointed for the respondent.
      - § 45a-717. Termination of parental rights. Conduct of hearing, Investigation and report. Grounds for termination
      - § 45a-719. Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption
- COURT RULES:**
- CONN. PRACTICE BOOK (2003)
    - Chapter 32a-1. Rights of parties neglected, uncared for and dependent children and termination of parental rights
      - § 32a-1. Right to counsel and to remain silent
- CASES:**
- In re Alexander V., 223 Conn. 557, 566, 613 A.2d 780 (1992). “Accordingly we conclude that due process does not require a competency hearing in all termination cases but only when (1) the parent’s attorney requests such a

hearing, or (2) in the absence of such a request, the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte.”

**WEST KEY  
NUMBERS:**

- *Constitutional law* # 274(5). Deprivation of personal rights in general. Privacy, marriage, family, and sexual matters
- *Infants* # 178. Evidence. Termination of parental rights

**DIGESTS:**

- *ALR DIGEST: Attorneys* § 35. Right to counsel and consultation  
Termination of parental rights
- CONNECTICUT FAMILY LAW CITATIONS: *Termination of Parental Rights*
- US L ED DIGEST: Constitutional Law § 803.5

**ENCYCLOPEDIAS:**

- 16B AM. JUR 2d *Constitutional Law* (1998).  
§ 955. Hearing. Character and sufficiency; in general—Presence of person; counsel
- 59 AM. JUR 2d *Parent and Child* (2002).  
§ 36. Loss or forfeiture of right  
§ 37. —Burden of proof
- Patricia C. Kussman, Annotation, *Right Of Indigent Parent To Appointed Counsel In Proceeding For Involuntary Termination Of Parental Rights*, 92 ALR5th 379 (2001).
- Wanda Ellen Wakefield, Annotation, *Validity Of State Statutes Providing For Termination Of Parental Rights*, 22 ALR4th 774 (1983).
- *Termination Of Parental Rights Based On Abuse Or Neglect*, 9 COA 2d 483 (1997)

**TEXTS &  
TREATISES:**

- RALPH H. FOLSOM AND GAYLE B. WILHELM, *INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTION* 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5:6. Termination of parental rights and appointment of guardian or statutory parent for adoption petition  
§ 5:7. Notice, guardian ad litem  
§ 5:8. Hearing, investigation and report, grounds for termination of parental rights, consent termination
- 4 SANDRA MORGAN LITTLE, *CHILD CUSTODY & VISITATION LAW AND PRACTICE* (2002).  
Chapter 28. Termination of parental rights  
§ 28.03. Procedural protections  
[4]. Counsel for the parents
- ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (1993).  
Chapter 13. Termination of Parental Rights  
§ 13.06. Right to counsel

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 CONNECTICUT PROBATE LAW JOURNAL 269 (1996).  
II. Background  
E. The federal judiciary and constitutional issues, pp. 290-291

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# Section 1.1c

## Standard of Proof

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to the standard of proof in termination of parental rights in Connecticut.
- DEFINITIONS:**
- “The constitutional guarantee of due process of law requires that the statutory grounds for termination of parental rights be established by ‘clear and convincing evidence,’ not merely a fair preponderance of the evidence.” In Re Emmanuel, 43 Conn. Supp. 108, 113, 648 A.2d 904 (1994).
  - “The respondent’s due process rights are therefore properly determined by the balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), employed by the United States Supreme Court in considering a parent’s right in termination proceedings to representation by counsel . . . and to the use of a clear and convincing standard of proof . . . .” In Re Juvenile Appeal (Docket No. 10155), 187 Conn. 431, 435, 446 A.2d 808 (1982).
- STATUTES:**
- CONN. GEN. STAT. (2003)  
§ 17a-112. Termination of parental rights of child committed to commissioner
- COURT RULES:**
- CONN. PRACTICE BOOK (2003)  
Chapter 32a-1. Rights of parties neglected, uncared for and dependent children and termination of parental rights  
§ 32a-3. Standards of proof
- CASES:**
- In The Interests of Jaisean M., 2002 Ct. Sup. 5787, 5789, 2002 WL 1156030 (May 3, 2002) “*Roth and Troxel* have nothing to do with a termination of parental rights case. In fact, the burden of proof in a termination of parental rights case has long been ‘clear and convincing evidence,’ and the requirement that a grandparent seeking visitation overcome a similar burden actually parallels and reaffirms, rather than undermines, the statutory scheme applicable to termination cases.”
  - In re Eden, 250 Conn. 674, 694, 741 A.2d 873 (1999). “The constitutional requirement of proof by clear and convincing evidence applies only to those findings upon which the ultimate decision to terminate parental rights is predicated.”
- WEST KEY NUMBERS:**
- *Constitutional law* # 274(5). Deprivation of personal rights in general. Privacy, marriage, family, and sexual matters
  - *Infants* # 178. Evidence. Termination of parental rights
- DIGESTS:**
- *ALR DIGEST*: Attorneys § 35. Right to counsel and consultation

Termination of parental rights

- CONNECTICUT FAMILY LAW CITATIONS: *Termination of Parental Rights*
- US L ED DIGEST: Constitutional Law § 803.5

**ENCYCLOPEDIAS:**

- 16B AM. JUR 2d *Constitutional Law* (1998).  
§ 955. Hearing. Character and sufficiency; in general—Presence of person; counsel
- 59 AM. JUR 2d *Parent and Child* (2002).  
§ 36. Loss or forfeiture of right  
§ 37. —Burden of proof
- Patricia C. Kussman, Annotation, *Right Of Indigent Parent To Appointed Counsel In Proceeding For Involuntary Termination Of Parental Rights*, 92 ALR5th 379 (2001).
- Wanda Ellen Wakefield, Annotation, *Validity Of State Statutes Providing For Termination Of Parental Rights*, 22 ALR4th 774 (1983).
- *Termination Of Parental Rights Based On Abuse Or Neglect*, 9 COA 2d 483 (1997).  
§ 24. Presumption and burden of proof

**TEXTS &  
TREATISES:**

- ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (1993).  
Chapter 13. Termination of Parental Rights  
§ 13.03. Standard of proof
- 4 JOAN HEIFETZ HOLLINGER ET AL., *ADOPTION LAW AND PRACTICE* (2001).  
§ 2.10. Exceptions to the requirement of parental consent  
[2]. State courts and statutory examples
- SANDRA MORGAN LITTLE, *CHILD CUSTODY & VISITATION LAW AND PRACTICE* (1999).  
Chapter 28. Termination of parental rights  
§ 28.04[2]. Burden of proof

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 CONNECTICUT PROBATE LAW JOURNAL 269 (1996).  
II. Background  
E. The federal judiciary and constitutional issues, pp. 293-294

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# Section 1.1d

## Equal Protection of the Laws

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to the constitutional guarantee of equal protection of the laws in termination of parental rights in Connecticut
- DEFINITIONS:**
- “The guaranty of equal protection of the laws ensures that the laws apply alike to all in the same situation, or that similar treatment is afforded to those in similar circumstances.” *In re Nicolina T.*, 9 Conn. App. 598, 606, 520 A.2d 639 (1987).
- CASES:**
- *In re Nicolina T.*, 9 Conn. App. 598, 606, 520 A.2d 639 (1987). “The trial court’s court decision to terminate the respondent’s parental rights was made pursuant to the statutory requirements of General Statutes § 17-43a (b) [now § 17a-112], makes no distinction between mentally ill and other persons. As such, the statutory criteria applies with equal force to all parents without regard to their mental condition.”
- WEST KEY NUMBERS:**
- Constitutional Law #225.1. Equal protection of the laws. Regulations affecting civil rights or personal rights and relations in general.
- DIGESTS:**
- ALR DIGEST: *Termination of parental rights*
  - CONNECTICUT FAMILY LAW CITATIONS: *Termination of Parental Rights*
- ENCYCLOPEDIAS:**
- Wanda Ellen Wakefield, Annotation, *Validity Of State Statutes Providing For Termination Of Parental Rights*, 22 ALR4th 774 (1983).  
§§ 5-9. Objections on grounds of discrimination; Equal protection
- COMPILER:** Lawrence Cheeseman, Connecticut Judicial Department Law Library, One Court Street, Middletown, CT 06457. (860) 343-6560. EMAIL: lawrence.cheeseman@jud.state.ct.us

# Section 1.1e

## Notice and Opportunity to Be Heard

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to the constitutional guarantee of notice and the opportunity to be heard including determination of parental competency.
- DEFINITIONS:**
- **Mentally incompetent person:** “one who is unable to understand the nature of the termination proceeding and unable to assist in the presentation of his or her case.” *In re Alexander V.*, 223 Conn. 557, 563, 613 A.2d 780 (1992).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 45a-716. **Hearing on petition to terminate parental rights.**  
**Notice**
      - (a) Upon receipt of a petition for termination of parental rights, the Court of Probate or the Superior Court . . . shall set a time and place for hearing the petition. The time for hearing shall be not more than thirty days after the filing of the petition.
      - (b) The court shall cause notice of the hearing to be given to the following persons as applicable: (1) The parent or parents of the minor child, including any parent who has been removed as guardian on or after October 1, 1973, under section 45a-606; (2) the father of any minor child born out of wedlock, provided at the time of filing the petition (A) he has been adjudicated the father of such child by a court of competent jurisdiction, or (B) he has acknowledged in writing to be the father of such child, or (C) he has contributed regularly to the support of such child, or (D) his name appears on the birth certificate, or (E) he has filed a claim for paternity as provided under section 46b-172s, or (F) he has been named in the petition as the father of the child by the mother; (3) the guardian or any other person whom the courts shall deem appropriate . . . .
      - (c) Except as provided in subsection (d) of this section, notice of the hearing and a copy of the petition, certified by the petitioner, the petitioner's agent or attorney, or the court clerk, shall be served at least ten days before the date for the hearing by personal service on the persons enumerated in subsection (b) of this section who are within the state, and by certified mail, return receipt requested, on the Commissioner of Children and Families. If the address of any person entitled to personal service is unknown, or if personal service cannot be reasonably effected within the state or if any person enumerated in subsection (b) of this section is out of the state, a judge or clerk of the court shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least ten days before the

date of the hearing. Any publication shall be in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without this state, or if no such address is known, in the place where the termination petition has been filed.

- (d) In any proceeding pending in the Court of Probate, in lieu of personal service on a parent or the father of a child born out of wedlock who is either a petitioner or who signs under oath a written waiver of personal service on a form provided by the Probate Court Administrator, the court may order notice to be given by certified mail, return receipt requested, deliverable to addressee only and at least ten days prior to the date of the hearing. If such delivery cannot reasonably be effected, or if the whereabouts of the parents is unknown, then notice shall be ordered to be given by publication, as provided in subsection (c) of this section.

**§ 45a-717. Termination of parental rights. Conduct of hearing, Investigation and report. Grounds for termination**

- (a) At the hearing held on any petition for the termination of parental rights . . . any party to whom notice was given shall have the right to appear and be heard with respect to the petition.

**CASES:**

- In re Alexander V., 223 Conn. 557, 566, 613 A.2d 780 (1992). “Accordingly we conclude that due process does not require a competency hearing in all termination cases but only when (1) the parent’s attorney requests such a hearing, or (2) in the absence of such a request, the conduct of the parent reasonably suggests to the court, in the exercise of its discretion, the desirability of ordering such a hearing sua sponte.”

**WEST KEY NUMBERS:**

- CONSTITUTIONAL LAW # 274. Deprivation of personal rights in general. Privacy  
(5). Privacy; marriage, family and sexual matters
- MENTAL HEALTH # 472. Capacity to sue and be sued

**DIGESTS:**

- CONNECTICUT FAMILY LAW CITATIONS: *Termination of Parental Rights*

**TEXTS & TREATISES:**

- ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (1993).  
Chapter 13. Termination of Parental Rights  
§ 13.04. Standing  
§ 13.05. Service of process
- 1 JOAN HEIFETZ HOLLINGER ET AL., *ADOPTION LAW AND PRACTICE* (2001).  
§ 2.10[2]. State courts and statutory examples
- 4 SANDRA MORGAN LITTLE, *CHILD CUSTODY & VISITATION LAW AND PRACTICE* (2002).  
Chapter 28. Termination of parental rights  
§ 28.03. Procedural protections  
[1]. Service of process  
[2]. Notification of charges  
§ 28.04[5]. Right to be physically present

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## Section 1.2

# Termination by Consent

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the consensual termination of parental rights in Connecticut
- DEFINITIONS:**
- If a parent who is consenting to the termination of such parent's parental rights appears at the hearing on the petition for termination of parental rights, **the court shall explain to the parent the meaning and consequences of termination of parental rights**. Nothing in this subsection shall be construed to require the appearance of a consenting parent at the hearing regarding the termination of such parent's parental rights except as otherwise provided by court order. CONN. GEN. STAT. § 45a-717(a) (2003). [emphasis added]
  - At the adjourned hearing or at the initial hearing where no investigation and report has been requested, the court may approve a **petition for termination of parental rights based on consent** filed pursuant to this section terminating the parental rights and may appoint a guardian of the person of the child, or if the petitioner requests, the court may appoint a statutory parent, if it finds, upon **clear and convincing evidence** that (1) the termination is in the **best interest of the child** and (2) such parent has **voluntarily and knowingly consented** to termination of the parent's parental rights with respect to such child. CONN. GEN. STAT. § 45a-717(f) (2003). [emphasis added]
  - If the court denies a petition for termination of parental rights based on consent, it may refer the matter to an agency to assess the needs of the child, the care the child is receiving and the plan of the parent for the child. Consent for the termination of the parental right of one parent does not diminish the parental rights of the other parent of the child nor does it relieve the other parent of the duty to support the child. CONN. GEN. STAT. § 45a-717(f) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families
    - § 45a-715. **Petition to terminate parental rights**
      - (d) If a petition indicates that either or both parents consent to the termination of their parental rights, or if at any time following the filing of a petition and before the entry of a decree a parent consents to the termination of his parental rights, each consenting parent shall acknowledge such consent on a form promulgated by the Office of the Chief Court Administrator evidencing to the satisfaction of the court that the parent has voluntarily and

knowingly consented to the termination of his parental rights.  
[partial].

§ 45a-717. **Termination of parental rights. Conduct of hearing.**

**Investigation and report. Grounds for termination.**

(a) If a parent who is consenting to the termination of such parent's parental rights appears at the hearing on the petition for termination of parental rights, the court shall explain to the parent the meaning and consequences of termination of parental rights. Nothing in this subsection shall be construed to require the appearance of a consenting parent at the hearing regarding the termination of such parent's parental rights except as otherwise provided by court order. [partial]

(f) If the court denies a petition for termination of parental rights based on consent, it may refer the matter to an agency to assess the needs of the child, the care the child is receiving and the plan of the parent for the child. [partial]

**FORMS:**

- Probate Court
  - PC-600. Application, termination of parental rights
  - PC-610. Affidavit, temporary custody, removal, termination or adoption
  - PC-620. Order of notice/termination, appointment of statutory parent or guardian and/or adoption
  - PC-630. Citation and return/termination of parental rights
  - PC-631. Notice of hearing, parental rights matters
  - PC-682. Court order/request/return/investigation of parental rights matter/emancipation of minor
  - CM-15. Decree/report following consent termination
- [Superior Court](#)
  - JD-JM-40. Affidavit, consent of termination of parental rights
- 19 AM JUR PLEADING AND PRACTICE FORMS *Parent and Child* (1997 rev.)
  - § 131. Affidavit—Voluntary relinquishment by mother of parental rights

**CASES:**

- In Re Bruce R., 34 Conn. App. 176, 181, 640 A.2d 643 (1994), aff'd 234 Conn. 194 (1995). "We conclude that under the present statutory scheme a parent may petition for the termination of his or her own parental rights and that a petition for the termination of parental rights is not dependent on a pending adoption or state custodial placement."

**TEXTS:**

- PETER L. COSTAS, MANAGING ED., *LAWYERS' DESKBOOK: A REFERENCE MANUAL*, (2d ed. 2000).
  - ❑ Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. XVII-19.
- PAUL CHILL, *THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT* (1997).
  - Chapter 3, Termination of Parental Rights.
  - § 23. Termination by consent

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**Table 4 Consent to TPR within 48 hours of birth or by minor**

<b>Consent to TPR within 48 Hours of Birth or by Parent Who is a Minor</b>	
CONN. GEN. STATS. § 17a-112(a) (2003) (partial)	“No consent to termination by a mother shall be executed within forty-eight hours immediately after the birth of such mother's child. A parent who is a minor shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority. A guardian ad litem shall be appointed by the court to assure that such minor parent is giving an informed and voluntary consent.”
CONN. GEN. STATS. § 45a-715(d) (2003) (partial)	“No consent to termination by a mother shall be executed within forty-eight hours immediately after the birth of her child. A parent who is a minor shall have the right to consent to termination of parental rights and such consent shall not be voidable by reason of such minority. A guardian ad litem shall be appointed by the court to assure that such minor parent is giving an informed and voluntary consent.”

# Grounds (Nonconsensual)

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“At the adjourned hearing or at the initial hearing where no investigation and report has been requested, the court may approve a petition terminating the parental rights and may appoint a guardian of the person of the child, or, if the petitioner requests, the court may appoint a statutory parent, if it finds, upon clear and convincing evidence, that (1) the termination is in the best interest of the child, and (2)

- (A) the child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child;
- (B) the child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights;
- (C) there is no ongoing parent-child relationship which is defined as the relationship that ordinarily develops as a result of a parent having met on a continuing, day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the child;
- (D) the parent of a child who (i) has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding, or (ii) is found to be neglected or uncared for and has been in the custody of the commissioner for at least fifteen months and such parent has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child;
- (E) the parent of a child, under the age of seven years who is neglected or uncared for, has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable amount of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families;
- (F) the parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent; or
- (G) the parent was convicted as an adult or a delinquent by a court of competent jurisdiction of sexual assault resulting in the conception of the child except for a violation of section 53a-71 or 53a-73a, provided the court may terminate such parent's parental rights to such child at any time after such conviction.”

CONN. GEN. STATS. § 45a-717(g) (2003)

# Section 1.3a

## Abandonment

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the abandonment of a child as grounds for termination of parental rights in Connecticut
- DEFINITIONS:**
- **Abandoned** “means left without provision for reasonable and necessary care or supervision” CONN. GEN. STAT. §46b-115a(1) (2003)
  - **Temporary Emergency Jurisdiction:** (a) A court of this state has temporary emergency jurisdiction if the child is present in this state and (1) the child has been abandoned” CONN. GEN. STAT. § 46b-115n (2003)
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. **Termination of parental rights of child committed to the Commissioner of Children and Families**
      - (j)(3)(A). The child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child . . . .
    - § 45a-717. **Termination of parental rights. Grounds for termination**
      - (g) (2) (A). [T]he child has been abandoned by the parent in the sense that the parent has failed to maintain a reasonable degree of interest, concern or responsibility as to the welfare of the child;
- CASES:**
- In re Alexander C., 67 Conn. App. 417, 426, 787 A.2d 608 (2001). "In the context of termination of parental rights due to abandonment, this court has stated that among the generally understood obligations of parenthood are the expression of love and affection for the child, and the expression of personal concern over the health, education and general well-being of the child."
  - In re Deana E., 61 Conn. App. 185, 193, 763 A.2d 37 (2000). ““The commonly understood general obligation of parenthood entail these minimum attributes: (1) express love and affection for the child; (2) express personal concern over the health, education and general well-being of the child; (3) duty to supply the necessary food, clothing, and medical care; (4) the duty to provide an adequate domicile; and (5) the duty to furnish social and religious guidance.”” [original quote from In re Adoption of Webb, 14 Wash. App. 651, 657, 544 P.2d 130(1975)].
  - In re Terrance C., 58 Conn. App. 389, 394-395, 755 A.2d 232 (2000). “Incarceration alone, however, is not sufficient to establish the statutory grounds for abandonment.”
  - In re Kezia M., 33 Conn. App. 12, 17-18, 632 A.2d 1122, cert. den., 228 Conn. 915 (1993). “Abandonment focuses on the parent’s conduct . . . . Abandonment occurs where a parent fails to visit a child, does not display love or affection for the child, does not personally interact with the child,

and demonstrates no concern for the child's welfare."

- In Re Rayna M., 13 Conn. App. 23, 37, 534 A.2d 897 (1987). "It is not lack of interest alone which is the criterion in determining abandonment. Abandonment under General Statutes 17-43a(b)(1) requires failure to maintain "interest, concern or responsibility as to the welfare of the child." "Attempts to achieve contact with a child, telephone calls, the sending of cards and gifts, and financial support are indicia of 'interest, concern or responsibility' for the welfare of a child."
- In re Luke G., 40 Conn. Sup. 316, 323, 498 A. 2d 1054 (1985). "Where a parent fails to visit a child, fails to display any love or affection for the child, has no personal interaction with the child, and no concern for the child's welfare, statutory abandonment has occurred."

**WEST KEY  
NUMBERS:**

- *Infants* # 157. Abandonment or absence of parent

**ENCYCLOPEDIAS:**

- 32 POF3d 83 § 4 (1995). *Grounds For Termination Of Parental Rights*.
- 16 COA 219 (1988). *Cause Of Action For Adoption Without Consent Of Parent On Grounds Of Abandonment*.
- Annotation, *What Constitutes Abandonment Or Desertion Of Child By Its Parent Or Parents Within Purview Of Adoption Laws*, 35 ALR2d 662 (1954).

**TEXTS:**

- PETER L. COSTAS, MANAGING ED., *LAWYERS' DESKBOOK: A REFERENCE MANUAL*, (2d ed. 2000).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. XVII-19.
- PAUL CHILL, *THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT* (1997).  
Chapter 3, Termination of Parental Rights.  
§ 24. Nonconsensual Termination: Grounds  
A. Abandonment

**LAW REVIEWS:**

- Matthew R. Asman, Note, *The Rights Of A Foster Parent Versus The Biological Parent Who Abandoned The Child: Where Do The Best Interest Of The Child Lie?* 8 CONNECTICUT PROBATE LAW JOURNAL 93 (1993).
- Verna Lilburn, Note, *Abandonment As Grounds For The Termination Of Parental Rights*, 5 CONNECTICUT PROBATE LAW JOURNAL 263 (1991).

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**Table 5 ALR Annotations on Factors in TPR**

<b>ALR Annotations on Factors in Termination of Parental Rights</b>	
Drug use	Mary E. Taylor, Annotation, <i>Parent's Use Of Drugs As Factor In Awarding Of Custody Of Children, Visitation Rights Or Termination Of Parental Rights</i> , 20 ALR5th 534 (1994).
Indigence	<ul style="list-style-type: none"> <li>• Claudia G. Catalano, Annotation, <i>Natural Parent's Indigence As Precluding Finding That Failure To Support Child Waived Requirements Of Consent To Adoption—Factors Other Than Employment Status</i>, 84 ALR5th 191 (2000).</li> <li>• Claudia G. Catalano, Annotation, <i>Natural Parent's Indigence Resulting From Unemployment Or Underemployment As Precluding Finding That Failure To Support Child Waived Requirement Of Consent To Adoption</i>, 83 ALR5th 375 (2000).</li> <li>• Claudia G. Catalano, Comment Note, <i>Natural Parent's Indigence As Precluding Finding That Failure To Support Child Waived Requirement Of Consent To Adoption—General Principles</i>, 82 ALR5th 443 (2000).</li> </ul>
Mental deficiency	Anne M. Payne, Annotation, <i>Parent's Mental Deficiency As Factor In Termination Of Parental Rights—Modern Status</i> , 1 ALR5th 469 (1992).
Transsexuality of parent	Michael P. Sullivan, Annotation, <i>Parent's Transsexuality As Factor In Award Of Custody Of Children, Visitation Rights, Or Termination Of Parental Rights</i> , 59 ALR4th 1170 (1988).

## Section 1.3b

# Act(s) of Parental Commission Or Omission

*A Guide to Resources in the Law Library*

### SCOPE:

Bibliographic sources relating to termination of parental rights in Connecticut on the grounds of the denial of the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being because of parental omissions or commissions.

### DEFINITIONS:

- “[T]he child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights,” CONN. GEN. STATS. § 45a-717(g)(2)(B) (2003)
- **Abused:** “means that a child or youth (A) has had physical injury or injuries inflicted upon him other than by accidental means, or (B) has injuries which are at variance with the history given of them, or (C) is in a condition which is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment . . .” CONN. GEN. STAT. § 46b-120(3) (2001). **Note:** On or after July 1, 2001, CONN. GEN. STAT. § 46b-120(4) (2003).
- **Emotional injury:** “There is nothing in this clear statutory language that limits the acts of commission or omission to the serious physical injury of a child, rather than the serious emotional injury of a child.” *In re Seah H.*, 24 Conn. App. 135, 144, 586 A.2d 1171 (1991), cert. den. 218 Conn. 904.
- **Prima facie evidence:** “The language regarding prima facie evidence shifts the burden of proof from the petitioner to the parent to show why a child with clear evidence of physical injury that is unexplained should not be permanently removed from that parent's care.” *Ibid.*

### STATUTES:

- CONN. GEN. STAT. (2003)  
§ 17a-112(j)(3)(C). [T]he child has been denied, by reason of an act or acts of parental commission or omission including, but not limited to, sexual molestation or exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental

rights;  
 § 45a-717(g)(2)(B). "the child has been denied, by reason of an act or acts of parental commission or omission, including, but not limited to sexual molestation and exploitation, severe physical abuse or a pattern of abuse, the care, guidance or control necessary for the child's physical, educational, moral or emotional well-being. Nonaccidental or inadequately explained serious physical injury to a child shall constitute prima facie evidence of acts of parental commission or omission sufficient for the termination of parental rights;"

**CASES:**

- In re Carissa K., 55 Conn. App. 768, 782-3, 740 A.2d 1232 (1999). "The court found that C had been sexually abused by D because the department's expert testified that C's description of abuse was articulate and that she was able to make distinctions between what her maternal uncle did to her and what D did to her."
- In re Tabitha T., 51 Conn. App. 595, 603, 722 A.2d 1232 (1999). "While the children were in the respondent's care, the respondent failed to protect them from sexual abuse by their older brother. At one point, the respondent specifically told Tabitha not to disclose to therapist Martha Roberts anything about the sexual abuse or any other goings on of the family."
- In Re Felicia D., 35 Conn. App. 490, 502, 646 A.2d 862 (1994), cert. den. 231 Conn. 931 (1994). "The trial court found that Janelle was a victim of sexual abuse, and had sustained serious head injuries. Janelle received the injuries while in the respondent's care and the respondent offered no explanation consistent with those injuries. The court also found that although the respondent was not the person who inflicted serious physical injury on Janelle, she continually exposed her to the risk of serious injury by associating with dangerous men. She did not act to protect Janelle from sustaining the injuries she received, and she did not acknowledge the possibility that her husband, Peter Signorino, might have caused the injuries. These circumstances, the court held, cast grave doubt on the respondent's ability to parent. We conclude that the trial court's conclusion that this ground for termination existed as to Janelle is legally correct and factually supported."
- In re Seah H., 24 Conn. App. 135, 146, 586 A.2d 1171 (1991), cert. den. 218 Conn. 904. "We conclude that the statutory language 'acts of commission and omission' applies to custodial and noncustodial parents alike . . . ."
- In re Luke G. 40 Conn. Supp. 316, 324, 498 A.2d 1054 (1985). "The legislative history of § 45-61f (f)[now 45a-717(g)(2)] makes it clear that it was added to the law so that seriously abused children could be removed permanently from the care of the parent inflicting such abuse."

**WEST KEY  
NUMBERS:**

- *Infants* # 179. Evidence. Weight and sufficiency. Deprivation, neglect or abuse

**ENCYCLOPEDIAS:**

- Elizabeth Trainor, Annotation, *Sufficiency Of Evidence To Establish Parent's Knowledge Or Allowance Of Child's Sexual Abuse By Another Under Statute Permitting Termination Of Parental Rights For "Allowing" Or "Knowingly Allowing" Such Abuse To Occur*, 53 ALR5th 499 (1997).
- 32 POF3d 83 (1995). *Grounds For Termination Of Parental Rights*.  
     § 28. Physical evidence of neglect or abuse  
     § 29. Unexplained injuries  
     § 30. Expert opinion that child has been abused

**TEXTS:**

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). CHAPTER 3, TERMINATION OF PARENTAL RIGHTS.  
§ 24. Nonconsensual Termination: Grounds  
C. Acts of commission/omission

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 CONNECTICUT PROBATE LAW JOURNAL 269 (1996).

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# Section 1.3c

## No Ongoing Parent-Child Relationship

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to termination of parental rights in Connecticut on the grounds of no on-going parent-child relationship.
- DEFINITIONS:**
- “[T]here is no ongoing parent-child relationship which is defined as the relationship that ordinarily develops as a result of a parent having met on a continuing, day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the child;” CONN. GEN. STATS. § 45a-717(g)(2)(C) (2003)
- STATUTES:**
- CONN. GEN. STAT. (2003).  
17a-112(j)(3)(D). [T]here is no ongoing parent-child relationship, which means the relationship that ordinarily develops as a result of a parent having met on a day to day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of such parent-child relationship would be detrimental to the best interest of the child;  
§ 45a-717(g)(2)(C). "there is no ongoing parent-child relationship which is defined as the relationship that ordinarily develops as a result of a parent having met on a continuing, day-to-day basis the physical, emotional, moral and educational needs of the child and to allow further time for the establishment or reestablishment of the parent-child relationship would be detrimental to the best interests of the child;"
- CASES:**
- In re Alexander C., 67 Conn. App. 417, 426-427, 787 A.2d 608 (2001). "The respondent's separation from the child, his failure to seek out supervised visitation and his lack of interest in the child's life precluded the development of an ongoing parent-child relationship. We conclude, therefore, that the court's finding of a lack of an ongoing parent-child relationship was legally correct and factually supported."
  - In re Shane P., 58 Conn. App. 234, 240-241, 753 A.2d 409 (2000). "The evidence before the court was sufficient to support the conclusion that the child has no present memories of or feelings for the respondent. Shane does not refer to the respondent as his mother and has no memories of any maternal relationship with her. The respondent admitted at trial that Shane does not know her as he should know his mother. Rather, Shane refers to

his foster mother as his mother. Although Shane does warm to the respondent when visiting her in prison, he is not eager to see her initially and seeks comfort from his foster parents after visits.”

- In Re Passionique T., 44 Conn.Supp. 551, 563-4, 695 A.2d 1107 (1996). “The child clearly knows that Linda T. is her mommy - or one of her mommies - and has no aversion or documented negative reaction to her visits. Even if Karen M. is identified as her principal mommy after eighteen months of being her primary caretaker, the fact that this is a natural result when custody is removed from a biological parent by action of the department is a bar to using this fact to establish this ground for termination.” .
- In re Valerie D., 223 Conn. 492, 494-495, 613 A.2d 748 (1992). “The dispositive issues in this appeal are whether: (1) General Statutes 45a-717 (f) (2)[fn1] permits the termination of the parental rights of the mother of an infant based upon the mother's prenatal conduct of injecting cocaine;”
- In re Jessica M., 217 Conn. 459, 469, 586 A.2d 597 (1991). “The Appellate Court, applying the statutory standard of ‘no ongoing parent-child relationship’ in the light of our decisions, has correctly concluded that the statute requires that a child have some ‘present memories or feelings for the natural parent’ that are positive in nature.”
- In Re Karrlo K. 44 Conn. Supp. 101, 116, 669 A.2d 1249 (1994). “No ongoing parent-child relationship contemplates a situation in which, regardless of fault, a child either has never known their parents, or that no relationship has ever developed between them, or has definitely lost that relationship, so that despite its former existence it has now been completely displaced. In any case, the ultimate question is ‘whether the child has no present memories or feelings for the natural parent’ . . . . The mere recognition of an individual as a parent will not defeat this ground.”
- In Re Kezia M. 33 Conn.App.12, 20, 632 A.2d 1122 (1993). “This part of the statute requires the trial court to undertake a two-pronged analysis. First, there must be a determination that no parent-child relationship exists, and second, the court must look into the future and determine whether it would be detrimental to the child's best interest to allow time for such a relationship to develop.”

**ENCYCLOPEDIAS:**

- Mary E. Taylor, Annotation, *Parent’s Use Of Drugs As Factor In Award Of Custody Of Children, Visitation Rights, Or Termination Of Parental Rights*, 20 ALR5th 534 (1994).

**TEXTS:**

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). CHAPTER 3, TERMINATION OF PARENTAL RIGHTS.  
D. No ongoing parent-child relationship

**LAW REVIEWS:**

- Michael J. Keenan, Note, *Connecticut’s Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 CONNECTICUT PROBATE LAW JOURNAL 269 (1996).
- Sharon I. Farquharson, Comment, *The “Two Prong” Inquiry—The Best Alternative For Conflicting Rights Involved In Proceedings For Termination Of Parental Rights*, 13 CONNECTICUT .LAW REVIEW 709 (1981).

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# Section 1.3d

## Neglected & Uncared for

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic references relating to termination of parental rights in Connecticut on the grounds of neglect and uncared for child.
- SEE ALSO:**
- [§ 1.3e. Failure to rehabilitate](#)
- DEFINITIONS:**
- **Neglected:** “a child or youth may be found "neglected" who (A) has been abandoned or (B) is being denied proper care and attention, physically, educationally, emotionally or morally or (C) is being permitted to live under conditions, circumstances or associations injurious to his well-being or (D) has been abused . . .” CONN. GEN. STAT. § 46b-120(8) (2001). **Note:** On or after July 1, 2001, CONN. GEN. STAT. § 46b-120(9) (2003).
  - **Uncared for:** “a child or youth may be found ‘uncared for’ who is homeless or whose home cannot provide the specialized care which his physical, emotional or mental condition requires. For the purposes of this section the treatment of any child by an accredited Christian Science practitioner in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment . . .” CONN. GEN. STAT. § 46b-120(9) (2001). **Note:** On or after July 1, 2001, CONN. GEN. STAT. § 46b-120(10) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003).
    - § 17a-112(j)(3)(B) and (E). **Termination of parental rights of child committed to Commissioner of Children and Families.**
    - § 45a-717(g)(2)
      - (D). [T]he parent of a child who (i) has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding, or (ii) is found to be neglected or uncared for and has been in the custody of the commissioner for at least fifteen months and such parent has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has failed to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child;
      - (E). [T]he parent of a child, under the age of seven years who is neglected or uncared for, has failed, is unable or is unwilling to achieve such degree of personal rehabilitation as would encourage the belief that within a reasonable amount of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such

parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families;"

#### CASES:

- In re Michael D., 58 Conn. App. 119, 124, 752 A.2d 1135 (2000), cert. den. 245 Conn. 911 (2000). "Our statutes clearly and explicitly recognize the state's authority to act before harm occurs to protect children whose health and welfare may be adversely affected and not just children whose welfare has been affected. The commissioner need not show, but need simply allege, that there is a potential for harm to occur."
- In re Kelly S., 29 Conn. App. 600, 613, 616 A.2d 1161 (1992). "Actual incidents of abuse or neglect are not required in determining that a child is uncared for under the "specialized needs" section of the statute . . . For purposes of commitment of a child to the custody of the commissioner pursuant to 46b-129, proof of ongoing parenting deficiencies is sufficient to satisfy the statute where those deficiencies mean that the child's home is unable to provide the care required for her special needs."

#### WEST KEY NUMBERS:

- *Infants* #156. Deprivation, neglect, or abuse

#### ENCYCLOPEDIAS:

- 59 AM JUR 2d *Parent and Child* (2002).  
     § 16. Termination of relationship  
     § 36. Loss or forfeiture of right  
     § 37. —Burden of proof
- 43 C.J.S. *Infants* (1978).  
     § 39. Termination of parental rights  
     § 40. \_\_\_\_\_. Policy considerations and determinative factors  
     § 72. Judgment and disposition of child; review. Termination of Parental Rights
- 32 POF3d 83 (1995). *Grounds For Termination Of Parental Rights*.  
     see [Table 18](#)  
     § 6. Neglect.  
     § 7. Abuse
- 3 POF2d 265 (1974). *Child Neglect*  
     §§ 25-43. Proof of physical neglect—malnutrition and lack of adequate clothing  
     §§ 44-71. Proof of emotional neglect—child's emotional well-being endangered by parent's disturbed condition  
     §§ 72-80. Proof of medical neglect—parent's refusal to consent to blood transfusion during surgery for alleviation of facial disfigurement
- 14 TRIALS 619 (1968). *Juvenile Court Proceedings*  
     § 8. Neglected children

#### TEXTS:

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). CHAPTER 3, TERMINATION OF PARENTAL RIGHTS.  
     B. Failure to rehabilitate  
     E. Predictive failure to rehabilitate

#### LAW REVIEWS:

- Michael J. Keenan, Note, *Connecticut's Trend In The Termination Of Parental Rights And What Can Be Done To Further It*, 10 CONNECTICUT PROBATE LAW JOURNAL 269 (1996).
- John Gesmonde, Comment, *Emotional Neglect In Connecticut*, 5 CONNECTICUT LAW REVIEW 100 (1972).

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# Failure To Rehabilitate

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to termination of parental rights in Connecticut on the grounds of parent's failure to rehabilitate themselves.
- SEE ALSO:**
- [§ 1.3d Neglected or Uncared for](#)
- DEFINITIONS:**
- **Personal rehabilitation** "as used in the statute refers to the restoration of a parent to his or her former constructive and useful role as a parent." *In re Migdalia M.*, 6 Conn. App. 194, 203, 504 A.2d 533 (1986).
  - **Two Prong Test:** "Both prongs of the test must be met to terminate parental rights for failure to achieve rehabilitation: one, that the parent has failed to achieve rehabilitation and, two, that there is no reason to believe that the parent could assume a responsible position in the life of the child within a reasonable time, *considering the age and needs of the child.*" *In re Roshawn R.*, 51 Conn. App. 44, 55, 720 A.2d 1112 (1998).
- STATUTES:**
- CONN. GEN. STAT. (2003).
    - § 17a-112(c)(B) and (E). Termination of parental rights of child committed to Commissioner of Children and Families
    - § 45a-717(g)(2)
      - (D). [T]he parent of a child who (i) has been found by the Superior Court or the Probate Court to have been neglected or uncared for in a prior proceeding, or (ii) is found to be neglected or uncared for and has been in the custody of the commissioner for at least fifteen months and **such parent** has been provided specific steps to take to facilitate the return of the child to the parent pursuant to section 46b-129 and has **failed to achieve such degree of personal rehabilitation** as would encourage the belief that within a reasonable time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child; (emphasis added).
      - (E). "[T]he parent of a child, under the age of seven years who is neglected or uncared for, has failed, is **unable or is unwilling to achieve such degree of personal rehabilitation** as would encourage the belief that within a reasonable amount of time, considering the age and needs of the child, such parent could assume a responsible position in the life of the child and such parent's parental rights of another child were previously terminated pursuant to a petition filed by the Commissioner of Children and Families;" (emphasis added).
- CASES:**
- *In re Vincent D.*, 65 Conn. App. 658, 669, 783 A.2d 534 (2001). "Pursuant to § 17a-112 (c) (3) (B), the failure of a parent to achieve sufficient personal rehabilitation is one of six grounds for termination of parental rights. This ground has been established if the parent of a child, after a

judicial finding of neglect, fails to achieve a degree of rehabilitation sufficient to encourage the belief that at some future date within a reasonable time, considering the age and needs of the child, the parent could assume a responsible position in the life of that child."

- In re Cesar G., 56 Conn. App. 289, 292-3, 742 A.2d 428 (2000). "The burden is clearly upon the persons applying for the revocation of commitment to allege and prove that cause for commitment no longer exists. Once that has been established, the inquiry becomes whether a continuation of the commitment will nevertheless serve the child's best interests. On this point, when it is the natural parents who have moved to revoke commitment, the state must prove that it would not be in the best interests of the child to be returned to his or her natural parents. In re Juvenile Appeal (Anonymous), 177 Conn. 648, 659, 420 A.2d 875 (1979).’ In re Thomas L., 4 Conn. App. 56, 57, 492 A.2d 229 (1985)."
- In Re Passionique T., 44 Conn. Sup. 551, 564, 695 A.2d 1107 (1996). "[T]he simple gauge for the existence of this ground is the answer to the question: Is the parent, on the adjudicatory date, any closer to being able to provide satisfactorily for the neglected child than she was on the date the child's custody was removed?"

**WEST KEY  
NUMBERS:**

- *Infants*  
#155. Dependent and neglected children; conflict with parental rights.  
Termination of parental rights and other permanent actions  
#156. \_\_\_\_\_. Deprivation, neglect or abuse

**TEXTS:**

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). CHAPTER 3, TERMINATION OF PARENTAL RIGHTS.  
B. Failure to rehabilitate  
E. Predictive failure to rehabilitate

**LAW REVIEWS:**

- Sharon I. Farquharson, Comment, *The "Two Prong" Inquiry—The Best Alternative For Conflicting Rights Involved In Proceedings For Termination Of Parental Rights*, 13 CONNECTICUT .LAW REVIEW 709 (1981).

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# Section 1.3f

## Parent Has Killed or Committed an Assault Upon Another Child of the Parent

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to termination of parental rights in Connecticut on the grounds of the deliberate killing or attempt to kill or committing an assault resulted in serious bodily injury upon another child of the parent.
- DEFINITIONS:**
- “[T]he parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent;” CONN.GEN. STATS. § 45a-717(g)(2)(F) (2003)
- STATUTES:**
- CONN. GEN. STAT. (2003)  
§ 17a-112(j)(3)(F). [T]he parent has killed through deliberate, nonaccidental act another child of the parent or has requested, commanded, importuned, attempted, conspired or solicited such killing or has committed an assault, through deliberate, nonaccidental act that resulted in serious bodily injury of another child of the parent;  
§ 45a-717(g)(2)(F).
- LEGISLATIVE:**
- 1998 CONN. ACTS 241 §§ 8 and 9
  - Conn. General Assembly, Office of Legislative Research, *Federal Adoption and Safe Families Requirements*, OLR Report 98-R-0627 (April 17, 1998). <http://www.cga.state.ct.us/ps98/rpt/olr/98-r-0627.doc>
- TEXTS:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, *INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT* 3D (2002).  
§ 5:8. Hearing, investigation and report, ground for termination of parental rights, consent terminations. See especially pp. 5-22 to – 23.
- COMPILER:** Lawrence Cheeseman, Connecticut Judicial Branch Law Library, One Court

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# Section 1.3g

## Parent Convicted of Sexual Assault Resulting in Conception of the Child

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic sources relating to termination of parental rights in Connecticut upon the grounds of a conviction of sexual assault resulting in the conception of child.
- DEFINITIONS:**
- [T]he parent was convicted as an adult or a delinquent by a court of competent jurisdiction of sexual assault resulting in the conception of a child except for a violation of section 53a-71 or 53a-73a, provided the court may terminate such parent's parental rights to such child at any time after such conviction." CONN.GEN. STATS. § 45a-717(g)(2)(G) (2003)
- STATUTES:**
- CONN. GEN. STAT. (2003).  
§ 17a-112(j)(3)(G). [T]he parent was convicted as an adult or a delinquent by a court of competent jurisdiction of a sexual assault resulting in the conception of the child, except a conviction for a violation of section 53a-71 or 53a-73a, provided the court may terminate such parent's parental rights to such child at any time after such conviction.  
§ 45a-717(g)(2)(G).
- LEGISLATIVE:**
- 1998 CONN. ACTS 241 §§ 8 and 9.
  - 2000 CONN. ACTS 137 §§ 1 and 12
  - Conn. General Assembly, Office of Legislative Research, *Federal Adoption and Safe Families Requirements*, OLR Report 98-R-0627 (April 17, 1998). <http://www.cga.state.ct.us/ps98/rpt/olr/98-r-0627.doc>
- TEXTS:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D (2002).  
§ 5:8. Hearing, investigation and report, ground for termination of parental rights, consent terminations.
- COMPILER:** Lawrence Cheeseman, Connecticut Judicial Branch Law Library, One Court Street, Middletown. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us)  
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**Table 6 Proof of Grounds for Terminating Parental Rights**

<b>Proof of Grounds for Terminating Parental Rights</b> 32 POF 3d 83 (1995) Jacqueline D. Stanley	
<b>II. Elements of Proof</b>	
	§ 11. Proof of grounds for termination of parental rights; Checklist
<b>III. Model Discovery</b>	
	§ 12. Petitioner's interrogatories to defendant
<b>IV. Proof of grounds for terminating parental rights</b>	
A. Testimony of social worker	§ 13. Failure to provide appropriate supervision § 14. Failure to provide a stable home § 15. Failure to provide necessities § 16. Signs of alcohol or drug abuse § 17. Failure to provide contact, love or affection § 18. Failure to support, contact or plan for the future of child in foster care
B. Testimony of Psychologist	§ 20. Mental incapacity § 21. Emotional instability § 22. Overall observations
C. Testimony of Natural Father [Defendant]	§ 23. Failure to resume custody of a child in foster care § 24. Failure to provide financial support § 25. Failure to contact or communicate with child § 26. Incarceration § 27. Failure to use available resources
D. Testimony of Pediatrician	§ 28. Physical evidence of neglect or abuse § 29. Unexplained injuries § 30. Expert opinion that child has been abused
E. Testimony of Child Psychologist	§ 31. Expert opinion that termination is in the child's best interest

## § 6.4 Procedures in Termination of Parental Rights

A petition for termination of parental rights shall be entitled "In the interest of . . . (Name of child), a person under the age of eighteen years", and shall set forth with specificity: (1) The name, sex, date and place of birth, and present address of the child; (2) the name and address of the petitioner, and the nature of the relationship between the petitioner and the child; (3) the names, dates of birth and addresses of the parents of the child, if known, including the name of any putative father named by the mother, and the tribe and reservation of an American Indian parent; (4) if the parent of the child is a minor, the names and addresses of the parents or guardian of the person of such minor; (5) the names and addresses of: (A) The guardian of the person of the child; (B) any guardians ad litem appointed in a prior proceeding; (C) the tribe and reservation of an American Indian child; and (D) the child-placing agency which placed the child in his current placement; (6) the facts upon which termination is sought, the legal grounds authorizing termination, the effects of a termination decree and the basis for the jurisdiction of the court; (7) the name of the persons or agencies which have agreed to accept custody or guardianship of the child's person upon disposition. CONN. GEN. STATS. § 45a-715(b) (2003).

If the information required under subdivisions (2) and (6) of subsection (b) of this section is not stated, the petition shall be dismissed. If any other facts required under subdivision (1), (3), (4), (5) or (7) of subsection (b) of this section are not known or cannot be ascertained by the petitioner, he shall so state in the petition. If the whereabouts of either parent or the putative father named under subdivision (3) of subsection (b) of this section are unknown, the petitioner shall diligently search for any such parent or putative father. The petitioner shall file an affidavit with the petition indicating the efforts used to locate the parent or putative father. CONN. GEN. STATS. § 45a-715(c) (2003).

# Section 1.4a

## Jurisdiction

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to jurisdictions of the Probate and Superior (Juvenile) courts in a termination of parental rights in Connecticut (effective January 1, 2003).
- DEFINITIONS:**
- **Probate Court:** “A petition under this section shall be filed in the court of probate for the district in which the petitioner or the child resides or, in the case of a minor who is under the guardianship of any child care facility or child-placing agency, in the court of probate for the district in which the main office or any local office of the agency is located. If the petition is filed with respect to a child born out of wedlock, the petition shall state whether there is a putative father to whom notice shall be given under subdivision (2) of subsection (b) of section 45a-716.” CONN. GEN. STATS. § 45a-715(e) (2003).
  - **Superior Court:** “Before a hearing on the merits in any case in which a petition for termination of parental rights is contested in a court of probate, the Court of Probate shall, on the motion of any legal party except the petitioner or may on its own motion or that of the petitioner, under rules adopted by the judges of the Supreme Court, transfer the case to the Superior Court.” CONN. GEN. STATS. § 45a-715(g) (2003).
  - **Transfer to Another Judge of Probate:** “In addition to the provisions of this section, the Probate Court may, on the court's own motion or that of any interested party, transfer the case to another judge of probate, which judge shall be appointed by the Probate Court Administrator from a panel of qualified probate judges who specialize in children's matters. Such panel shall be proposed by the Probate Court Administrator and approved by the executive committee of the Connecticut Probate Assembly. The location of the hearing shall be in the original probate court, except upon agreement of all parties and the Department of Children and Families, where applicable.” CONN. GEN. STATS. § 45a-715(g) (2003) as amended by 2001 CONN. ACTS 195 § 98.
  - **Transfer:** “If the case is transferred, the clerk of the Court of Probate shall transmit to the clerk of the Superior Court or the probate Court to which the case was transferred, the original files and papers in the case. The Superior Court or the probate court to which the case was transferred, upon hearing after notice as provided in sections 45a-716 and 45a-717, may grant the petition as provided in section 45a-717.” CONN. GEN. STATS. § 45a-715(g) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to Commissioner of Children and Families
    - § 45a-715. Petition to terminate parental rights
    - § 45a-716. Hearing on petition to terminate parental rights. Notice.

§ 45a-717. Termination of parental rights. Conduct of hearing.  
Investigation and report.

**COURT RULES:**

- CONN. PROBATE PRACTICE BOOK (4<sup>th</sup> ed. rev. 2000).  
Rule 7. Transfer of contested petitions of parental rights from Courts of Probate to the Juvenile Court.
  - 7.1. Motion to transfer by any legal party except petitioner
  - 7.2. Motion to transfer by petitioner or court of probate
  - 7.3. Where and when to file motion to transfer—copies
  - 7.4. Contents of motion to transfer—who may file
  - 7.5. Notice of transfer on motion by court of probate under Rule 7.2
  - 7.6. Schedule of hearing and notice of hearing on motion by petitioner to transfer under Rule 7.2
  - 7.7. Decree on motion to transfer under Rule 7.1
  - 7.8. Administrative actions upon granting of motion to transfer
  - 7.9. Copies of juvenile decrees and appeals
- CONN. PRACTICE BOOK (2003)  
Chapter 35a. Hearings concerning neglected, uncared for and dependent children and termination of parental rights  
§ 35a-19. Transfer from Probate Court of petitions for removal of parents as guardians or termination of parental rights

**CASES:**

- In re Lori Beth D., 21 Conn. App. 226, 229, 572 A.2d 1027 (1990). “We read this rule [7.2 of the Probate Court Rules] to mean that whether a hearing is held on a petitioner’s motion to transfer is within the discretion of the Probate Court, but that *if* the court, in fact, decides to hold a hearing, notice of such ‘hearing,’ in accordance with the procedure set out in Rule 7.6, becomes mandatory.”
- In re Theresa S., 196 Conn. 18, 30, 491 A.2d 355 (1985). “The parents’ rights can be terminated without an ensuing adoption.”

**TEXTS:**

PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). Chapter 3, Termination of Parental Rights.  
21. Termination petitions.  
A. Introduction

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# Section 1.4b

## Petition for TPR

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the content, form and amendment of a petition for termination of parental rights in Connecticut (effective January 1, 2003).
- DEFINITIONS:**
- **Petition** "means a formal pleading, executed under oath alleging that the respondent is within the judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition by reason of cited statutory provisions and seeking a disposition. Except for a petition for erasure of record, such petitions invoke a judicial hearing and shall be executed by any one of the parties authorized to do so by statute, provided a delinquency petition may be executed by either a probation officer or juvenile prosecutor." CONN. PRACTICE BOOK § 26-1(j) (2003).
  - **Diligently search:** "If the whereabouts of either parent or the putative father named under subdivision (3) of subsection (b) of this section are unknown, the petitioner shall diligently search for any such parent or putative father. The petitioner shall file an affidavit with the petition indicating the efforts used to locate the parent or putative father." CONN. GEN. STAT. §45a-715(c) (2003).
  - **Statutory parent:** "means the Commissioner of Children and Families or the child-placing agency appointed by the court for the purpose of giving a minor child or minor children in adoption;" CONN. GEN. STAT. §45a-707(7). (2003). See [Table 7](#)
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
      - (a). The petition shall be in the form and contain the information set forth in subsection (b) of section 45a-715, and be subject to the provisions of subsection (c) of said section.
    - § 45a-715. Petition to terminate parental rights
      - (b). [\[Full text § 4 supra\]](#)
      - (c). If the information required under subdivisions (2) and (6) of subsection (b) of this section is not stated, the petition shall be dismissed . . . [\[Full text § 4 supra\]](#)
      - (f). If any petitioner under subsection (a) is a minor or incompetent, the guardian ad litem, appointed by the court in accordance with section 45a-708, must approve the petition in writing, before action by the court.
- COURT RULES**
- CONN. PRACTICE BOOK (2003).  
Procedures in Juvenile Matters  
Chapter 33a. Petitions for neglect, uncared for, dependency and

termination of parental rights: initiation of proceedings, orders of temporary custody and preliminary hearings

§ 33a-1. Initiation of judicial proceeding: Contents of petitions and summary of facts

§ 33a-2. Service of summons, petitions and ex parte orders

§ 33a-3. Venue

§ 33a-4. Identity or location of respondent unknown

§ 33a-5. Address of person entitled to personal service unknown

§ 33a-6. Order of temporary custody; Ex parte orders and orders to appear

§ 33a-7. Preliminary hearing

§ 33a-8. Emergency, life-threatening medical situations—Procedures

**FORMS:**

- Probate Court  
PC-600. Application, termination of parental rights
- Superior Court, Juvenile Matters  
JD-JM-40 Rev. 9-2000. Notice/Summons and Order for Hearing – Termination of Parental Rights
- *Cause Of Action For Adoption Without Consent Of Parent On Ground Of Abandonment*, 16 COA 219 (1988).  
§ 35. Sample petition  
§ 36. Sample answer
- 19 AM JUR PLEADING AND PRACTICE FORMS *Parent and Child* (1997 rev.)  
§ 123. Petition or application—To terminate parental rights of incompetent parent—By state agency and foster parent

**CASES:**

- In re Eden F., 48 Conn. App. 290, 710 A.2d 771(1998). “Our rules of practice require that ‘[a] summary of the facts substantiating the allegations of the petition shall be attached thereto and shall be incorporated by reference.’ Practice Book § 1041.1 (2), now Practice Book (1998 Rev.) § 32-1 (b).”
- In re Angellica W., 49 Conn. App. 541, 548, 714 A.2d 1265 (1998). “The trial court, however, correctly pointed out that “actually, it’s a matter of proof, really, rather than whether they have the right to amend. I think they have the right to amend, to allege whatever they want and the burden is on them to prove whatever they allege.” Furthermore, Practice Book § 1055.1, now Practice Book (1998 Rev.) § 35-1 . . . provides that amendments to the petition may be made at any time prior to a final adjudication. We will not disturb the trial court’s decision to allow amendments to the petition unless there has been an abuse of discretion . . . . Since the rules of practice allow amendment, we cannot say that the trial court abused its discretion in this case by allowing amendment of the termination petition.”
- In re Bruce R., 34 Conn. App. 176, 181, 640 A.2d 643 (1994). “We conclude that under the present statutory scheme a parent may petition for the termination of his or her own parental rights and that a petition for the termination of parental rights is not dependent on a pending adoption or state custodial placement.”

**TEXTS:**

- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3D (2002).  
§ 5:6. Termination of parental rights and appointment of guardian or statutory parent for adoption petition

- PETER L. COSTAS, MANAGING ED., *LAWYERS' DESKBOOK: A REFERENCE MANUAL*, (2d ed. 2000).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. XVII-19.
- PAUL CHILL, *THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT* (1997). Chapter 3, Termination of Parental Rights.  
§ 21. Termination petitions

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**Table 7 Statutory Parent**

Statutory Parent	
Definition	“the Commissioner of Children and Families or the child-placing agency appointed by the court for the purpose of giving a minor child or minor children in adoption;” CONN. GEN. STAT. § 45a-707(7). (2003)
Appointment	CONN. GEN. STAT. §§ 45a-717, 45a-718(a), 17a-112 (2003)
Duties	CONN. GEN. STAT. § 45a-718(b) (2003)
Removal	CONN. GEN. STAT. § 45-718(c) (2003)
Resignation	CONN. GEN. STAT. § 45-718(c) (2003)

# Section 1.4c

## Parties and Standing in TPR Proceedings

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to what persons or agencies have standing to bring a termination of parental rights in Connecticut.
- DEFINITIONS:**
- **Child (Probate Court):** “[P]rovided in any case hereunder where the child with respect to whom the petition is brought has attained the age of **twelve**, the child shall be joined in the petition.” CONN. GEN. STAT. § 45a-715(a) (2003) (emphasis added).
  - **Child (Superior Court):** “In respect to any child in the custody of the Commissioner of Children and Families in accordance with section 46b-129, either the commissioner, or the attorney who represented such child in a pending or prior proceeding, or an attorney appointed by the Superior Court on its own motion, or an attorney retained by such child after attaining the age of **fourteen**, may petition the court for the termination of parental rights with reference to such child.” CONN. GEN. STATS. § 17a-112(a) (2003) (emphasis added).
  - **Relative:** “means any person descended from a common ancestor, whether by blood or adoption, not more than three generations removed from the child;” CONN. GEN. STAT. § 45a-707(6) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
    - § 45a-715. Petition to terminate parental rights
      - (a). see [Table 8](#)
- CASES:**
- In re Bruce R., 34 Conn. App. 176, 181, 640 A.2d 643 (1994). “We conclude that under the present statutory scheme a parent may petition for the termination of his or her own parental rights and that a petition for the termination of parental rights is not dependent on a pending adoption or state custodial placement.”
- ENCYCLOPEDIAS:**
- Michael G. Walsh, Annotation, *Standing Of Foster Parent To Seek Termination Of Rights Of Foster Child’s Natural Parent*, 21 ALR4th 535 (1983).
- TEXTS:**
- PETER L. COSTAS, MANAGING ED., *LAWYERS’ DESKBOOK: A REFERENCE MANUAL*, (2d ed. 2000).
    - Lynn B. Cochrane, *Child Protection*. “Termination of Parental Rights,”

pp. XVII-19.

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). Chapter 3, Termination of Parental Rights.
  - § 8. Neglect petitions
    - B. Parties and standing
  - § 21. Termination petitions
    - B. Parties and standing
- SANDRA MORGAN LITTLE, CHILD CUSTODY AND VISITATION LAW AND PRACTICE (2002).
  - Chapter 28. Termination of parental rights
    - § 28.02(3). Standing to maintain proceedings
      - [a]. In general
      - [b]. Foster parent standing
      - [c]. Grandparent standing
      - [d]. Child standing

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**Table 8 Who May Petition for TPR**

<b>CONN. GEN. STAT. § 45a-715(a) (2003)</b>	
“Any of the following persons may petition the Court of Probate to terminate parental rights of all persons who may have parental rights regarding any minor child or for the termination of parental rights of only one parent provided the application so states:	
(1)	Either or both parents, including a parent who is a minor;
(2)	the guardian of the child
(3)	the selectmen of any town having charge of any foundling child;
(4)	a duly authorized officer of any child care facility or child-placing agency or organization or any children's home or similar institution approved by the Commissioner of Children and Families;
(5)	a relative of the child if the parent or parents have abandoned or deserted the child;
(6)	the Commissioner of Children and Families, provided the custodial parent of such minor child has consented to the termination of parental rights and the child has not been committed to the commissioner, and no application for commitment has been made;

# Section 1.4d

## Notice

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A Guide to Resources in the Law Library

**SCOPE:** Bibliographic resources relating to notice in a TPR proceeding.

**SEE ALSO:** • [§ 1e. Notice and opportunity to be heard](#)

**DEFINITIONS:**

- **Persons to receive notice:** “The court shall cause notice of the hearing to be given to the following persons as applicable: (1) The parent or parents of the minor child, including any parent who has been removed as guardian on or after October 1, 1973, under section 45a-606; (2) the father of any minor child born out of wedlock, provided at the time of the filing of the petition (A) he has been adjudicated the father of such child by a court of competent jurisdiction, or (B) he has acknowledged in writing that he is the father of such child, or (C) he has contributed regularly to the support of such child, or (D) his name appears on the birth certificate, or (E) he has filed a claim for paternity as provided under section 46b-172a, or (F) he has been named in the petition as the father of the child by the mother; (3) the guardian or any other person whom the court shall deem appropriate; (4) the Commissioner of Children and Families.” CONN. GEN. STATS. §45a-716(b) (2003)
- **Representation by counsel:** “If the recipient of the notice is a person described in subdivision (1) or (2) of this subsection or is any other person whose parental rights are sought to be terminated in the petition, the notice shall contain a statement that the respondent has the right to be represented by counsel and that if the respondent is unable to pay for counsel, counsel will be appointed for the respondent.” CONN. GEN. STATS. §45a-716(b) (2003)
- **Service:** “Except as provided in subsection (d) of this section, notice of the hearing and a copy of the petition, certified by the petitioner, the petitioner's agent or attorney, or the court clerk, shall be served at least ten days before the date for the hearing by personal service or service at the person's usual place of abode on the persons enumerated in subsection (b) of this section who are within the state, and by certified mail, return receipt requested, on the Commissioner of Children and Families.” CONN. GEN. STATS. §45a-716(c) (2003)
- **Out of state or unknown persons:** “If the address of any person entitled to personal service or service at the person's usual place of abode is unknown, or if personal service or service at the person's usual place of abode cannot be reasonably effected within the state or if any person enumerated in subsection (b) of this section is out of the state, a judge or clerk of the court shall order notice to be given by registered or certified mail, return receipt requested, or by publication at least ten days before the date of the hearing. Any publication shall be in a newspaper of general circulation in the place of the last-known address of the person to be notified, whether within or without this state, or if no such address is known, in the place where the

termination petition has been filed.” CONN. GEN. STATS. §45a-716(c) (2003)

- **Certified mail; Notice by publication:** “In any proceeding pending in the Court of Probate, in lieu of personal service on a parent or the father of a child born out of wedlock who is either a petitioner or who signs under penalty of false statement a written waiver of personal service on a form provided by the Probate Court Administrator, the court may order notice to be given by certified mail, return receipt requested, deliverable to addressee only and at least ten days prior to the date of the hearing. If such delivery cannot reasonably be effected, or if the whereabouts of the parents is unknown, then notice shall be ordered to be given by publication, as provided in subsection (c) of this section.” CONN. GEN. STATS. §45a-716(d) (2003)

#### STATUTES:

- CONN. GEN. STAT. (2003)
  - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
    - (i). The Superior Court upon hearing and notice, as provided in sections 45a-716 and 45a-717, may grant a petition for termination of parental rights based on consent . . . .
    - (j). The Superior Court upon hearing and notice, as provided in sections 45a-716 and 45a-717, may grant a petition for termination of parental rights pursuant to this section . . . .
  - § 45a-716. Hearing on petition to terminate parental rights. Notice.
  - § 45a-717. Termination of parental rights. Conduct of hearing.
    - (a). At the hearing held on any petition for the termination of parental rights filed in the Court of Probate under section 45a-715, or filed in the Superior Court under section 17a-112, or transferred to the Superior Court from the Court of Probate under section 45a-715, any party to whom notice was given shall have the right to appear and be heard with respect to the petition . . . .

#### CASES:

- In re Savanna M., 55 Conn. App. 807, 811, 740 A.2d 484 (1999). “Although the commissioner did fail to check the box on the termination petition representing that the department made reasonable efforts toward reunification, the succeeding paragraphs of the petition alleging abandonment; lack of personal rehabilitation; denial of care, guidance and control by acts of omission or commission; and no ongoing parent-child relationship provided the respondent adequate notice of the proceedings against him.”
- In re Samantha B., 45 Conn. Supp. 468, 469, 722 A.2d 300 (1997), aff’d 51 Conn. App. 376 (1998), cert. den. 248 Conn. 902 (1999). “The mother’s failure to object this late scheduling of the initial hearing thus constitutes a waiver of any right she might have had to do.”
- In re Jason P., 41 Conn. Supp. 23, 27, 549 A.2d 286 (1988). “With respect to a termination petition, service is required for parents, including a parent who has been removed as guardian and certain putative fathers. General Statutes § 45-61d (b)[now 45a-716]. All other persons desiring to participate, including the paternal grandmother in this case, are, by terminology, equitable parties whose intervention is discretionary with the court.”

#### WEST KEY

- *Infants* # 198. Notice

**NUMBERS:**

**TEXTS:**

- PETER L. COSTAS, MANAGING ED., LAWYERS' DESKBOOK: A REFERENCE MANUAL, (2d ed. 2000).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. XVII-19.
- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). Chapter 3, Termination of Parental Rights.  
21. Termination petitions  
B. Parties and standing

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# Section 1.4e

## TPR Hearing

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the hearing on a petition to terminate parental rights (effective January 1, 2003).
- DEFINITIONS:**
- **Two Phases:** “The hearing on a petition to terminate parental rights consists of a two phases, adjudication and disposition . . . . In the adjudicatory phase, the trial court determines whether one of the statutory grounds for termination of parental rights exists by clear and convincing evidence. If the trial court determines that a statutory ground for termination exists, it proceeds to the dispositional phase. In the dispositional phase, the trial court determines whether termination is in the best interest of the child.” *In re Tabitha P.*, 39 Conn. App. 353, 360, 664 A.2d 1168 (1995).
  - **Seven Factors:** “In the dispositional phase of a termination of parental rights hearing, the trial court must determine whether it is established by clear and convincing evidence that the continuation of the respondent's parental rights is not in the best interest of the child. In arriving at this decision, the court is mandated to consider and make written findings regarding seven factors delineated in § 17a-112 (d).” *Ibid.*, 361-362.
  - **Co-Terminous Petition:** “Any petition brought by the Commissioner of Children and Families to the Superior Court, pursuant to subsection (a) of section 46b-129, may be accompanied by or, upon motion by the petitioner, consolidated with a petition for termination of parental rights filed in accordance with this section with respect to such child. Notice of the hearing on such petitions shall be given in accordance with sections 45a-716 and 45a-717. The Superior Court, after hearing, in accordance with the provisions of subsection (i) or (j) of this section, may, in lieu of granting the petition filed pursuant to section 46b-129, grant the petition for termination of parental rights as provided in section 45a-717.” CONN. GEN. STATS. § 17a-112(l) (2003)
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
    - § 45a-715. Petition to terminate parental rights
    - § 45a-716. Hearing on petition to terminate parental rights. Notice
    - § 45a-717. Termination of parental rights. Conduct of hearing. Investigation and report.
- COURT RULES:**
- CONN. PRACTICE BOOK (2003)
    - Procedures in Juvenile Matters
    - Chapter 32a. Rights of parties neglected, uncared for and dependent children and termination of parental rights
      - § 32a-1. Right to counsel and to remain silent

§ 32a-2. Hearing procedure; Subpoenas  
 § 32a-3. Standards of proof  
 § 32a-4. Child witness  
 § 32a-5. Child in the court  
 § 32a-6. Interpreter  
 § 32a-7. Records  
 § 32a-8. Use of confidential alcohol and drug abuse treatment records as evidence

Chapter 34a. Pleadings, motions, and discovery neglected, uncared for and dependent children and termination of parental rights

Chapter 35a. Hearing concerning neglected, uncared for and dependent children and termination of parental rights

§ 35a-3. Conterminous petitions

§ 35a-19. Transfer from probate court of petitions for removal of parents as guardian or termination of parental rights

§ 35a-21. Appeals

**CASES:**

- In re Eden F., 48 Conn. App. 290, 305-306, 710 A.2d 771 (1998). "A petition to terminate parental rights consists of two phases, adjudicatory and dispositive. Practice Book §§ 1042.1 and 1043.1, now Practice Book (1998 Rev.) §§ 33-1 and 33-5. See In re Romance M., 229 Conn. 345, 356, 641 A.2d 378 (1994). It is not necessary, however, that the two phases be the subject of separate hearings. One unified trial, as occurred in the two petitions that are the subject of the appeal now before us, is permissible."

**TEXTS:**

- PETER L. COSTAS, MANAGING ED., LAWYERS' DESKBOOK: A REFERENCE MANUAL, (2d ed. 2000).  
 Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. XVII-19.
- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). Chapter 3, Termination of Parental Rights.  
 21. Termination petitions  
 B. Parties and standing

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# Section 1.4f

## Reasonable Effort to Locate and Reunify

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the requirement that Department of Children and Families make reasonable efforts to locate the parent and to reunify the child with the parent.
- DEFINITIONS:**
- **Reasonable Efforts Finding:** “The Superior Court, upon hearing and notice as provided in sections 45a-716 and 45a-717, may grant a petition filed pursuant to this section if it finds by clear and convincing evidence (1) that the Department of Children and Families has made reasonable efforts to locate the parent and to reunify the child with the parent, unless the court finds in this proceeding that the parent is unable or unwilling to benefit from reunification efforts provided such finding is not required if the court has determined at a hearing pursuant to subsection (b) of section 17a-110 or section 17a-111b that such efforts are not appropriate,” CONN. GEN. STATS. § 17a-112(j) (2003).
  - **Reasonable efforts:** “In our view, reasonable efforts means doing everything reasonable, not everything possible.” *In re Eden F.*, 48 Conn. App. 290, 312, 710 A.2d 771 (1998).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
    - § 45a-717. Petition to terminate parental rights
- CASES:**
- *In re Kachainy C.*, 67 Conn. App. 401, 411, 787 A.2d 592 (2001). “The language of § 17a-112 (c) is clear: a finding that it is no longer appropriate for the department to make reasonable efforts to reunite the family must be made only once, either at an extension hearing or at a termination hearing. Common sense also tells us that it would be a waste of judicial resources to require courts to make redundant findings.”
  - *In re Rachel M.*, 58 Conn. App. 448, 449, 755 A.2d 266 (2000). “As this court has often stated, ‘On appeal, our function is to determine whether the trial court’s conclusion was legally correct and factually supported. We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached . . . nor do we retry the case or pass upon the credibility of the witnesses. . . . Rather, on review by this court every reasonable presumption is made in favor of the trial court’s ruling. . . . [W]e will disturb the findings of the trial court in both the adjudication and disposition phases only if they are clearly erroneous. . . . The trial court’s ruling on [the issue of whether reasonable efforts were

made] should not be disturbed on appeal unless, in light of the evidence in the entire record, it is clearly erroneous. *In re Tabitha P.*, 39 Conn. App. 353, 361, 664 A.2d 1168 (1995).’ (Internal quotation marks omitted.) *In re Savanna M.*, 55 Conn. App. 807, 812-13, 740 A.2d 484 (1999).

- *In re Amanda A.*, 58 Conn. App. 451, 755 A.2d 243 (2000).
- *In re Terrance C.*, 58 Conn. App. 389, 755 A.2d 232 (2000).
- *In re Amber B.*, 56 Conn. App. 776, 746 A.2d 222 (2000).
- *In re Antonio M.*, 56 Conn. App. 534, 744 A.2d 915 (2000).
- *In re Eden F.*, 250 Conn. 674, 741 A.2d 873, reargument den. 251 Conn. 924 (1999).

**WEST KEY  
NUMBERS:**

- *Infants*
  - #231. Modification, vacation, or extension of order or placement.  
Returning child to parents
  - #252. Review. Questions of law and fact

**TEXTS:**

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). Chapter 3, Termination of Parental Rights.
  - § 25. Nonconsensual termination: other requirements
    - C. Reasonable efforts finding

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# Section 1.4g

## Statutory Factors

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the seven statutory factors the courts consider in TPR proceedings in Connecticut.
- SEE ALSO**
- [Table 9: Statutory Factors Considered in TPR](#)
- DEFINITIONS:**
- **Factors:** “Except in the case where termination is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding . . . [six factors see [Table 9](#) for list]” CONN. GEN. STATS. §§ 17-112(k) and 45a-717(h) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
      - (k). see [Table 9](#) for text
    - § 45a-717. Petition to terminate parental rights
      - (h). see [Table 9](#) for text
- CASES:**
- *In re Quanitra M.*, 60 Conn. App. 96, 104, 758 A.2d 863 (2000). “The seven factors set forth in § 17a-112 (e)[now (k)] serve simply as guidelines to the court and are not statutory prerequisites that need to be proven before termination can be ordered . . . . As a result, there is no requirement that each factor be proven by clear and convincing evidence.”
  - *In re Barbara J.*, 215 Conn. 31, 47, 574 A.2d 203 (1990). “Whether the six factors listed in 17-43a (d) [now 17a-112(k)] are expressly considered in conjunction with or subsequent to the trial court's determination of whether the petitioner has produced the statutorily required proof of at least one of the alternatives listed in 17-43a (b) is without significance as long as no judgment of termination is rendered until after there has been full compliance with 17-43a. Although 17-43a does not mandate a bifurcated hearing, it does command a termination decision that clearly identifies the concerns of subsections (b), and (d). Bifurcating the termination decision, however enables the trial court to focus clearly on the statutory requirements of each subsection.”
- WEST KEY NUMBERS:**
- *Infants*
    - #155. Dependent, neglected, and delinquent children. Termination of rights or other permanent action
    - #178. Evidence. Termination of parental rights
    - #210. Verdict, finding or determination
- TEXTS:** PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT

(1997). Chapter 3, Termination of Parental Rights.  
§ 25. Nonconsensual termination: other requirements  
B. Seven dispositional factors

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**Table 9 Statutory Factors Considered in TPR**

<b>Conn. Gen. Stats. §§ 17a-112(k) and 45a-717(h) (2003)</b>	
<b>Except in the case where termination is based on consent, in determining whether to terminate parental rights under this section, the court shall consider and shall make written findings regarding:</b>	
(1)	The timeliness, nature and extent of services offered, provided and made available to the parent and the child by a child-placing agency to facilitate the reunion of the child with the parent;
(2)	whether the Department of Children and Families has made reasonable efforts to reunite the family pursuant to the federal Adoption Assistance and Child Welfare Act of 1980, as amended;
(3)	the terms of any applicable court order entered into and agreed upon by any individual or agency and the parent, and the extent to which all parties have fulfilled their obligations under such order;
(4)	the feelings and emotional ties of the child with respect to the child's parents, any guardian of the child's person and any person who has exercised physical care, custody or control of the child for at least one year and with whom the child has developed significant emotional ties;
(5)	the age of the child
(6)	the efforts the parent has made to adjust such parent's circumstances, conduct or conditions to make it in the best interest of the child to return the child to the parent's home in the foreseeable future, including, but not limited to, (A) the extent to which the parent has maintained contact with the child as part of an effort to reunite the child with the parent, provided the court may give weight to incidental visitations, communications or contributions and (B) the maintenance of regular contact or communication with the guardian or other custodian of the child;
(7)	the extent to which a parent has been prevented from maintaining a meaningful relationship with the child by the unreasonable act or conduct of the other parent of the child, or the unreasonable act of any other person or by the economic circumstances of the parent.



# Section 1.4h

## Motion to Open or Set Aside

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to a motion to open or set aside a judgment terminating parental rights.
- DEFINITIONS:**
- **Motion to open or set aside:** “The court may grant a motion to open or set aside a judgment terminating parental rights pursuant to section 52-212 or 52-212a or pursuant to common law or may grant a petition for a new trial on the issue of the termination of parental rights, provided the court shall consider the best interest of the child, except that no such motion or petition may be granted if a final decree of adoption has been issued prior to the filing of any such motion or petition.” CONN. GEN. STATS. § 45a-719 (2003).
  - **Evidence:** “Any person who has legal custody of the child or who has physical custody of the child pursuant to an agreement, including an agreement with the Department of Children and Families or a licensed child-placing agency, may provide evidence to the court concerning the best interest of the child at any hearing held on the motion to reopen or set aside a judgment terminating parental rights.” Ibid.
  - **Best interest of the child:** “For the purpose of this section, ‘best interest of the child’ shall include, but not be limited to, a consideration of the age of the child, the nature of the relationship of the child with the caretaker of the child, the length of time the child has been in the custody of the caretaker, the nature of the relationship of the child with the birth parent, the length of time the child has been in the custody of the birth parent, any relationship that may exist between the child and siblings or other children in the caretaker’s household, and the psychological and medical needs of the child. The determination of the best interest of the child shall not be based on a consideration of the socio-economic status of the birth parent or the caretaker.” Ibid.
- STATUTES:**
- CONN. GEN. STAT. (2003)  
§ 45a-719. Reopening judgment terminating parental rights. Best interest of child. Final decree of adoption
- CASES:**
- In re Salvatore P., 74 Conn. App. 23, 27, 812 A2d 70 (2002). “In seeking to open the termination judgments, the respondent had the burden at the hearing to do more than assert an unadorned claim that due to duress, she was unable to attend the termination trial.”

**TEXTS:**

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997). Chapter 3, Termination of Parental Rights.  
§ 26. Post-judgment procedures  
B. Motions to open

**COMPILER:**

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## Section 1.4i

# Appeals to Appellate Court

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to appeals of TPR judgments.
- SEE ALSO:**
- [§ 1.4j. Standards of Appellate Review](#)
- DEFINITIONS:**
- “Appeals from final judgments or decisions of the superior court in juvenile matters shall be taken within twenty days from the issuance of notice of the rendition of the judgment or decision from which the appeal is taken in the manner provided by the rules of appellate procedure.” CONN. PRACTICE BOOK § 35-4(a) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 46b-142. Appeal to Appellate Court.
      - (b). The Department of Children and Families, or any party at interest aggrieved by any final judgment or order of the court, may appeal to the Appellate Court in accordance with the provisions of section 52-263. The clerk in charge of such juvenile matters shall forthwith, after notice of any appeal, prepare and file with the clerk of the Appellate Court the certified copy of the record of the case from which such appeal has been taken. The name of the child or youth involved in any such appeal shall not appear on the record of the appeal, and the records and papers of any juvenile case filed in the Appellate Court shall be open for inspection only to persons having a proper interest therein and upon order of the court.
      - (c). Pending such appeal, the Superior Court may cause the child or youth to be detained in some suitable place as the court may direct, or may release the child or youth in the care of a parent, probation officer or other suitable person, and may require the appellant to enter into a bond or recognizance to the state, with surety or security conditioned that the child or youth shall appear before the Appellate Court and abide by the order and judgment.
      - (d). Notwithstanding subsections (a), (b) and (c) of this section, the Department of Children and Families, or any party to the action aggrieved by a final judgment in a termination of parental rights proceeding, shall be entitled to an **expedited hearing** before the Appellate Court. A final decision of the Appellate Court shall be issued as soon as practicable after the date on which the certified copy of the record of the case is filed with the clerk of the Appellate Court. [emphasis added].
    - § 46b-143. Sec. 46b-143. Notice of appeal.
- COURT RULES:**
- CONN. PRACTICE BOOK (2003).
    - Chapter 35a. Hearings concerning neglected, uncared for and dependent children and termination of parental rights

§ 35a-21. Appeal

- (b). If an indigent party wishes to appeal a final decision and if the trial counsel declines to represent the party because in counsel's professional opinion the appeal lacks merit, counsel shall file a timely motion to withdraw and to extend time in which to take an appeal. The judicial authority shall then forthwith appoint another attorney to review this record who, if willing to represent the party on appeal, will be appointed for this purpose. If the second attorney determines that there is no merit to an appeal, that attorney shall make this known to the judicial authority at the earliest possible moment, and the party will be informed by the clerk forthwith that the party has the balance of the extended time to appeal in which to secure counsel who, if qualified, may be appointed to represent the party on the appeal.

Chapter 79. Appeals in Juvenile Matters

§ 79-1. Time to take; Form; costs

§ 79-2. Clerk's duties

§ 79-3. Inspection of records

§ 79-4. Hearings; confidentiality

**TEXTS:**

- PAUL CHILL, THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT (1997).  
§ 17. Appeals

**COMPILER:**

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# Section 1.4j

## Standards of Appellate Review

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to standards of review in termination of parental rights
- DEFINITIONS:**
- “On appeal, we will disturb the findings of the trial court in both the adjudication and disposition only if they are clearly erroneous.” In re Tabitha P., 39 Conn. App. 353, 362, 664 A.2d 1168 (1995)
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-112. Termination of parental rights of child committed to the Commissioner of Children and Families.
    - § 45a-715. Petition to terminate parental rights
- CASES:**
- In re Stanley D., 61 Conn. App. 224, 229, 763 A.2d 224 (2000). “Our standard of review is well settled in termination of parental rights cases. We will overturn a finding of fact that a parent has failed to achieve rehabilitation only if it is clearly erroneous in light of the evidence in the record. In re Eden E., 250 Conn. 674, 705, 741 A.2d 873 (1999). We construe the facts in favor of the court's judgment because of the court's opportunity as the trier of fact to scrutinize the evidence, and to hear and observe the witnesses during trial. Id. “We do not examine the record to determine whether the trier of fact could have reached a conclusion other than the one reached.” (Internal quotation marks omitted.) Id.; see In re Luis C., 210 Conn. 157, 166, 554 A.2d 722 (1989). Our function is to determine whether the court's conclusions were legally correct and factually supported. In re Roshawn R., 51 Conn. App. 44, 51, 720 A.2d 1112 (1998).”
  - In re Deana E., 61 Conn. App. 197, 205, 763 A.2d 45 (2000). “Our standard of review of a court's decision to bifurcate a termination of parental rights hearing is well settled. The decision whether to bifurcate a termination of parental rights proceeding lies solely within the discretion of the trial court. See *State v. Anonymous*, 179 Conn. 155, 172-74, 425 A.2d 939 (1979); see also *In re Tabitha P.*, 39 Conn. App. 353, 360 n. 6, 664 A.2d 1168 (1995). “In reviewing claims that the trial court abused its discretion the unquestioned rule is that great weight is due to the action of the trial court and every reasonable presumption should be given in favor of its correctness; the ultimate issue is whether the court could reasonably conclude as it did . . . .” (Internal quotation marks omitted.) *In re Jose C.*, 11 Conn. App. 507, 508, 512 A.2d 1239 (1987).”

**WEST KEY  
NUMBERS:**

- *Infants* # 252. Review. Questions of law and fact.

**TEXTS:**

- PETER L. COSTAS, MANAGING ED., *LAWYERS' DESKBOOK: A REFERENCE MANUAL*, (2d ed. 2000).  
Lynn B. Cochrane, *Child Protection*. "Termination of Parental Rights," pp. XVII-19.
- PAUL CHILL, *THE LAW OF CHILD ABUSE AND NEGLECT IN CONNECTICUT* (1997). Chapter 3, Termination of Parental Rights.  
21. Termination petitions  
B. Parties and standing

**COMPILER:**

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Table 10 Cooperative Postadoption Agreements

<h1>Cooperative Postadoption Agreement</h1> <p>CONN. GEN. STATS. §45a-715 (2003)</p>	
(h)	<p>Either or both birth parents and an intended adoptive parent may enter into a cooperative postadoption agreement regarding communication or contact between either or both birth parents and the adopted child. Such an agreement may be entered into if: (1) The child is in the custody of the Department of Children and Families; (2) an order terminating parental rights has not yet been entered; and (3) either or both birth parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights. The postadoption agreement shall be applicable only to a birth parent who is a party to the agreement. Such agreement shall be in addition to those under common law. Counsel for the child and any guardian ad litem for the child may be heard on the proposed cooperative postadoption agreement. There shall be no presumption of communication or contact between the birth parents and an intended adoptive parent in the absence of a cooperative postadoption agreement.</p>
(i)	<p>If the Court of Probate determines that the child's best interests will be served by postadoption communication or contact with either or both birth parents, the court shall so order, stating the nature and frequency of the communication or contact. A court may grant postadoption communication or contact privileges if: (1) Each intended adoptive parent consents to the granting of communication or contact privileges; (2) the intended adoptive parent and either or both birth parents execute a cooperative agreement and file the agreement with the court; (3) consent to postadoption communication or contact is obtained from the child, if the child is at least twelve years of age; and (4) the cooperative postadoption agreement is approved by the court.</p>
(j)	<p>(j) A cooperative postadoption agreement shall contain the following: (1) An acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irrevocable, even if the adoptive parents do not abide by the cooperative postadoption agreement; and (2) an acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the cooperative postadoption agreement.</p>
(k)	<p>The terms of a cooperative postadoption agreement may include the following: (1) Provision for communication between the child and either or both birth parents; (2) provision for future contact between either or both birth parents and the child or an adoptive parent; and (3) maintenance of medical history of either or both birth parents who are a party to the agreement.</p>

[cont'd]

# Cooperative Postadoption Agreement

CONN. GEN. STATS. §45a-715 (2003)

[cont'd]

(l)	The order approving a cooperative postadoption agreement shall be made part of the final order terminating parental rights. The finality of the termination of parental rights and of the adoption shall not be affected by implementation of the provisions of the postadoption agreement, nor is the cooperative postadoption contingent upon the finalization of an adoption. Such an agreement shall not affect the ability of the adoptive parents and the child to change their residence within or outside this state.
(m)	A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption and shall not serve as a basis for orders affecting the custody of the child. The court shall not act on a petition to change or enforce the agreement unless the petitioner had participated, or attempted to participate, in good faith in mediation or other appropriate dispute resolution proceedings to resolve the dispute and allocate any cost for such mediation or dispute resolution proceedings.
(n)	An adoptive parent, guardian ad litem for the child or the court on its own motion may, at any time, petition for review of communication or contact ordered pursuant to subsection (i) of this section, if the adoptive parent believes that the best interests of the child are being compromised. The court may order the communication or contact be terminated, or order such conditions in regard to communication or contact as the court deems to be in the best interest of the adopted child.

**See also** CONN. GEN. STATS. §17a-112(c) –(h) (2003)

## Chapter 2

# ADOPTION IN CONNECTICUT

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**Adoption:** “means the establishment by court order of the legal relationship of parent and child;” CONN. GEN. STAT. § 45a-707(a) (2003).

“Being of purely statutory origin, a legal adoption results if the statutory procedure is followed, but fails if any essential requirement is not complied with.” Appeal of Goshkarian, 110 Conn. 463, 465, 148 A. 379(1930).

**Termination of parental rights and adoption:** "This court agrees that the termination of parental rights is part of the adoption process; it is clear that adoption cannot proceed unless the parents' rights are terminated in the first instance. The converse is not true. The parents' rights can be terminated without an ensuing adoption." In re Theresa S., 196 Conn. 18, 30, 491 A.2d 355 (1985).

### Sections in this chapter:

- § 2.1 ADOPTION BY NONRELATED PERSONS
- § 2.2 ADOPTION BY STEPPARENTS
- § 2.3 ADOPTION BY BLOOD RELATIVES
- § 2.4 CONSENT TO ADOPTION
- § 2.5 ADOPTION AGREEMENTS
- § 2.6 OPEN ADOPTIONS
- § 2.7 IDENTIFIED ADOPTIONS
- § 2.8 SPECIAL NEEDS ADOPTIONS
- § 2.9 FOSTER PARENTS AND ADOPTION
- § 2.10 INTERNATIONAL AND OUT OF STATE ADOPTIONS IN CONNECTICUT
- § 2.11 ADULT ADOPTIONS
- § 2.12 ADOPTION AND BIRTH RECORDS
- § 2.13 ADOPTION AND INHERITANCE
- § 2.14 WRONGFUL ADOPTION

## **Tables in this chapter:**

Table 10 Cooperative Postadoption Agreements

Table 11 Second Parent Adoption in Connecticut

Table 12: Who May Give a Child in Adoption?

Table 13: Statutory Parent and Adoption

Table 14 Cooperative Postadoption Agreement

Table 15 Excerpts from an Open Adoption and Visitation Agreement

Table 16: Adoption Review Board

Table 17: Regulations on Identified Adoptions

Table 18: Adoption Subsidy Review Board

Table 19: Adoption Laws on the Internet

## **See Also:**

APPENDIX B: ADOPTION TIMEFRAME

APPENDIX C: ADOPTION REVIEW BOARD

APPENDIX D: FOSTER PARENTS' LIABILITY FOR THE VIOLENT ACTS OF FOSTER CHILDREN

APPENDIX E: BACKGROUND ON ADOPTION

## Section 2.1

# Adoption by Nonrelated Persons

*A Guide to Resources in the Law Library*

### SCOPE:

- Bibliographic resources relating to procedures for the adoptions of children by nonrelated persons in Connecticut.

### TREATED ELSEWHERE:

- For adoptions where child has been located by prospective adoptive parents see [§ 2.7 Identified Adoptions](#)

### DEFINITION:

- **Adoption:** "When both parents' rights are terminated, it becomes the obligation of the state to look for permanent placement for the child or children. Adoption is the most appropriate solution unless family members such as grandparents, aunts, uncles, brothers, sisters, etc., are available to act as surrogates on either a temporary or permanent basis." In re Theresa S., 196 Conn. 18, 30-31, 491 A.2d 355 (1985).
- **Agency Placement.** "An application for adoption of a minor child not related to the adopting parent shall not be accepted by the court of probate unless the child sought to be adopted has been placed by the commissioner of children and families or a child -placing agency , except as provided by section 45a-764 [Adoption Review Board], and the placement for adoption has been approved by the commissioner or a child-placing agency." CONN. GEN. STATS. § 45a-727(a)(3) (2003)

### STATUTES:

- CONN. GEN. STAT. (2003)
  - Chapter 803. Termination of parental rights and adoption
  - § 45a-706. Best interest of the child standard used in construing statutes
  - § 45a-724. Who may give children in adoption [see Tables 1 & 2]
  - § 45a-724a. Placement for adoption with child-placing agency by Commissioner of Children and Families
  - § 45a-725. When children are free for adoption
  - § 45a-726a. Considerations of sexual orientation of prospective adoptive or foster parents
  - § 45a-726b. Recruitment of minority families not to delay placement of adoptive children
  - § 45a-727. Application and agreement of adoption. Investigation, report, assessment of fees. Hearings and decrees
    - \_\_\_\_\_ ( c ) ( 3 ) marital status, effect of race, color or religion
  - § 45a-727a. State policy re best interest of child; public policy re marriage
  - § 45a-727b. Endorsement of rights and responsibilities of unmarried persons to child subject to adoption, but not marriage or union of such persons
  - § 45a-731. Effects of final decree of adoption. Surviving rights
  - § 45a-736. Change of name of adopted person
  - § 45a-737. Obliteration of original name on institutional records,

new name substituted

§ 45a-764. Powers of Adoption Review Board [Table 16]

§ 46b-1(14). Appeals to superior court

**LEGISLATIVE:**

- LAWRENCE K. FURBISH, BABY Z SUPREME COURT DECISION AND REMEDIAL STATUTORY CHANGES, Connecticut General Assembly. Office of Legislative Research Report 99-r-0222 (February 19, 1999). URL: <http://www.cga.state.ct.us/ps99/rpt/olr/99%2Dr%2D0222.doc>
- LAWRENCE K. FURBISH, ADOPTION REVIEW BOARD, Connecticut General Assembly, Office of Legislative Research Report 99-R-0531 (April 14, 1999). URL: <http://www.cga.state.ct.us/ps99/rpt/olr/99-r-0531.doc>  
“background on the Adoption Review Board and how often it meets.”
- LAWRENCE K. FURBISH, BACKGROUND ON ADOPTION, Connecticut General Assembly, Office of Legislative Research Report 94-R-703 (December 5, 1994). URL: <http://www.cga.state.ct.us/ps94/rpt/olr/94-r-0703.doc>  
*Statistics on adoption including the number of adoptions that take place each year and the number of children available for adoption, the procedures, the qualifications for a parent to adopt, the state's policy on transracial adoptions, and major legislative changes adopted during the past five years in Connecticut.*

**LEGISLATIVE HISTORY:**

- 2000 Conn. Acts 228 (Reg. Sess.). An act concerning the best interest of children in adoption matters.

**REGULATIONS:**

- CONN. AGENCIES REGS. §17a-150-51 et seq. (eff. Feb. 20, 1997)  
Child Placing Agency Licensing and Responsibilities

**FORMS:**

- CONN. PROBATE COURT FORMS  
PC-603. Application/Adoption  
PC-610. Affidavit/ Temporary Custody, Removal, Termination or Adoption  
PC-681. Agreement of Adoption  
PC-663. Decree/Adoption  
PC-650. Adoption/Certificate

**DIGESTS:**

- WEST KEY NUMBERS: *Adoption* # 9-16
- DOWLING'S DIGEST *Adoption*
- CONNECTICUT FAMILY LAW CITATIONS *Adoption*

**COURT CASES:**

- *In re Joshua S.*, 260 Conn. 182, 200, 794 A.2d 996 (2002). The Ps [testamentary guardians] cite *Bristol v. Brundage*, supra, 24 Conn. App. 402 [589 A.2d 1 (1991)], in support of their argument that there is a presumption that it is in a child's best interests to allow a named **testamentary guardian** [guardian appointed through will executed in accordance with CONN. GEN. STAT. § 45a-596(a) (2001)] to serve as such, and that this presumption may be rebutted only by demonstrating that this would be detrimental to the child. The Ps claim further that *Bristol* dictates that detriment is shown only by demonstrating that the testamentary guardians are not fit to serve as such. While we agree with

the Ps that this presumption may be rebutted only by showing that it would be detrimental to the child to permit the named testamentary guardian to serve as such, we disagree with their narrow interpretation of how detriment is demonstrated. We conclude, moreover, that the trial court properly determined that the presumption was rebutted."  
[emphasis added]

- In re the adoption of Baby Z, 247 Conn. 474, 724 A.2d 1035 (1999). *Denial of adoption of a child by same-sex cohabiting partner of natural mother. Lead to passage of 2000 Conn. Acts 228 (Reg. Sess.) making such adoptions possible in Connecticut.*
- Nancy G. v. Dept. of Children and Families, 248 Conn. 672, 688, 733 A.2d 136 (1999). "Because Jonathan was not placed for adoption by a licensed child-placing agency as required by § 17a-116, the plaintiff is not eligible to receive a postadoption subsidy for Jonathan."
- Bristol v. Brundage, 24 Conn. App. 402, 406, 589 A.2d 1 (1991). "We hold that 45a-596 (a) should be interpreted as mandating the appointment of the sole surviving parent's testamentary choice of a guardian because it should be presumed that the best interests of the child are served by that appointment. This presumption, like that of 46b-56b, may be rebutted only by a showing that it would be detrimental to the child to permit the named testamentary guardian to serve as such. Here there was no such showing in the trial court. Unless the presumption is challenged by the introduction of rebuttal evidence, 45a-596 (a) is not one of the sections of the chapter to be construed in terms of the best interests of the minor child. General Statutes 45a-605 (a)."
- Hao Thi Popp v. Lucas, 182 Conn. 545, 551, 438 A.2d 755 (1980). "In any controversy between a parent and a stranger, the parent should have a strong initial advantage, to be lost only where it is shown that the child's welfare plainly requires custody to be placed in the stranger."  
[internal quotation marks and citation omitted.]

#### ENCYCLOPEDIAS:

- 2 C.J.S. *Adoption of Persons* (1972).  
§§ 13-17. Persons who may adopt  
§§ 18-24. Persons who may be adopted
- 2 AM. JUR. 2D *Adoption* (1994).  
§§ 14-19. Persons who may adopt  
§§ 111-133. Proceedings for adoption; Procedure
- Sonja Larsen, Annotation, *Adoption Of Child By Same-Sex Partners*, 27 ALR5th 54 (1995).

#### TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5.3. Probate Court jurisdiction over adoptions, interstate compacts  
§ 5.4. Who may give minors in adoption  
§ 5.5. When minors are free for adoption  
§ 5.13. Change of name, birth certificate, and other adoption-related records
- Dianne E. Yamin, Hon., *Adoption: Law and Practice, in Connecticut LAWYERS' DESKBOOK: A REFERENCE MANUAL*, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).
- 1 JOAN H. HOLLINGER ET AL., ADOPTION LAW AND PRACTICE (2001).  
Chapter 4. Adoption Procedures

- § 4.05. Who may adopt
  - § 4.06. Who may be adopted
- 6 ARNOLD H. RUTKIN, GEN. ED., FAMILY LAW AND PRACTICE (2002).  
Chapter 64. Adoption law, procedure and practice
  - § 64.07. Who may adopt
  - § 64.08. Who may be adopted
- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).  
Chapter 4. Adoption
  - § 4:08. Who may adopt
  - § 4:55. Surrogate parents
  - §§ 4:66. Adoption by lesbian and gay individuals or couples
  - §§ 4:70-40:71. Minority issues
- 1 DONALD T. KRAMER, LEGAL RIGHTS OF CHILDREN (2D ED. 1994).  
Chapter 6. Adoption of Children and Other Arrangements.
  - § 6.01. Introduction to adoption
  - § 6.02. Persons who may be adopted and who may adopt
  - § 6.03. \_\_\_\_\_. Consideration of race or religion in adoption proceedings.
  - § 6.08. Attacks on adoption decrees
- 2 ANN M. HARALAMBIE, HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES (2D ED. 1993).  
Chapter 14. Adoption (1993).
  - § 14.05. Who may be adopted
  - § 14.18. Transracial adoption

**LAW REVIEWS:**

- Jennifer E. Croteau, Note, *In Re Baby Z: Manipulating The Law To Allow Adoption Of A Child By The Same Sex Partner Of The Biological Parent*, 11 QUINNIPIAC PROBATE LAW JOURNAL 99 (1997).
- C.M. Lyman, *Conflict of Laws and Facts with Special Application to Our Adoption Statutes*, 9 CONNECTICUT BAR JOURNAL 315 (1935)
- R. Richard Banks, *The Color of Desire: Fulfilling Adoptive Parents' Racial Preferences Through Discriminatory State Action*, 107 YALE L.J. 875 (1998).
- Elizabeth B. Correspondence, *Private Race Preferences in Family Formation*, 107 YALE L.J. 2351 (1998).
- LEGALTRAC® SUBJECT HEADING: ***Adoptive Parents***  
***Interracial Adoption***

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**Table 11 Second Parent Adoption in Connecticut**

<p><b>2000 Conn. Acts 228 (Reg. Sess.)</b></p> <p>An Act Concerning the Best Interest of Children in Adoption Matters</p>	
§ 45a-724 (3)	Subject to the approval of the Court of Probate as provided in section 45a-727, as amended by this act, any parent of a minor child may agree in writing with one other person who shares parental responsibility for the child with such parent that the other person shall adopt or join in the adoption of the child, if the parental rights, if any, of any other person other than the parties to such agreement have been terminated.
§ 45a-727a	<p>The General Assembly finds that:</p> <ol style="list-style-type: none"> <li>(1) The best interests of a child are promoted by having persons in the child's life who manifest a deep concern for the child's growth and development;</li> <li>(2) The best interests of a child are promoted when a child has as many persons loving and caring for the child as possible;</li> <li>(3) The best interests of a child are promoted when the child is part of a loving, supportive and stable family, whether that family is a nuclear, extended, split, blended, single parent, adoptive or foster family; and</li> <li>(4) It is further found that the current public policy of the state of Connecticut is now limited to a marriage between a man and a woman.</li> </ol>
§ 45a-727b	Nothing in this section and sections 45a-724, 45a-727, 45a-727a and 45a-731 shall be construed to establish or constitute an endorsement of any public policy with respect to marriage, civil union or any other form of relation between unmarried persons or with respect to any rights of or between such persons other than their rights and responsibilities to a child who is a subject of an adoption as provided for in sections 45a-724 and 45a-727.

## Section 2.2

# Adoption by Stepparents

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to procedures for stepparent adoption in Connecticut
- STATUTES:**
- CONN. GEN. STAT. (2003)  
Chapter 803. Termination of parental rights and adoption  
§ 45a-733. Procedure on application for adoption by stepparent
- FORMS:**
- Probate Court Forms  
PC-603. Application/Adoption  
PC-610. Affidavit/ Temporary Custody, Removal, Termination or Adoption  
PC-681. Agreement of Adoption  
PC-663. Decree/Adoption  
PC-650. Adoption/Certificate
- DIGESTS:**
- WEST KEY NUMBER: *Adoption* # 9
  - DOWLING'S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- COURT CASES**  
(Connecticut):
- Remkiewicz v. Remkiewicz, 180 Conn. 114, 120, 429 A.2d 1035 (1980).  
*Stepfather may not obtain parental rights through single expedient of changing stepchild's birth certificate*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).  
§§ 14-19. Persons who may adopt  
§§ 111-133. Proceedings for adoption; Procedure
  - 2 C.J.S. *Adoption of Persons* (1972).  
§§ 13-17. Persons who may adopt  
§§ 18-24. Persons who may be adopted
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5.4. Who may give minors in adoption  
§ 5.11. Procedure on adopting minor by stepparents
  - Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).  
XVIII-7 to 8. Stepparent adoptions
  - 6 ARNOLD H. RUTKIN, GEN. ED., FAMILY LAW AND PRACTICE (2002).  
Chapter 64. Adoption law, procedure and practice  
§ 64.04[1]. Stepparent adoption

§ 64.25. Sample pleadings and orders

[4]. Stepparent adoption

- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).

Chapter 4. Adoption

§ 4:05. Stepparent

**LAW REVIEWS:**

- Usha Rengachary Smerdon, *Federal Income Tax Consequences Of The Stepparent-Stepchild Relationship*, 1998 WILEY FAMILY LAW UPDATE, Chapter 9 (1998).
- Kareen Labrecque, Note, *Grandparent Visitation After Stepparent Adoption*, 6 CONNECTICUT PROBATE L.J. 61 (1991).

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## Section 2.3

# Adoption by Blood Relatives

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to adoption by relative in Connecticut including unmarried father and the child's grandparents.
- DEFINITION:**
- **Relative:** "means any person descended from a common ancestor, whether by blood or adoption, not more than three generations removed from the child" CONN. GEN. STAT. § 45a-707(6) (2003).
  - **Relative:** "shall include, but not be limited to, a person who has been adjudged by a court of competent jurisdiction to be the father of a child born out of wedlock, or who has acknowledged his paternity under the provisions of section 46b-172a, with further relationship to the child determined through the father." CONN. GEN. STAT. § 45a-724(a)(4) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - Chapter 803. Termination of parental rights and adoption
    - § 45a-724 (a)(3) and (b). Who may give child in adoption  
[see Tables 12 & 13]
    - § 45a-725. When child free for adoption
    - § 45a-727. Application and agreement of adoption. Investigation, report, assessment of fees. Hearings and decrees.
- LEGISLATIVE:**
- LAWRENCE K. FURBISH, BACKGROUND ON ADOPTION, Connecticut General Assembly, Office of Legislative Research Report 94-R-703 (December 5, 1994).  
URL: <http://www.cga.state.ct.us/ps98/rpt/olr/98%2Dr%2D0285.doc>
- FORMS:**
- Probate Court Forms
    - PC-603. Application/Adoption
    - PC-610. Affidavit/ Temporary Custody, Removal, Termination or Adoption
    - PC-681. Agreement of Adoption
    - PC-663. Decree/Adoption
    - PC-650. Adoption/Certificate
- CASES:**
- Mullins v. Oregon, 57 F.3d 789 (9<sup>th</sup> Circuit 1995). *Constitutional rights of grandparents.*
  - Lehr v. Robertson, 463 U.S. 248, 77 Led 2d 614 (1983). *Unwed father.*
- DIGESTS:**
- WEST KEY NUMBER: *Adoption*
  - DOWLING'S DIGEST *Adoption*

- CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).
    - § 17. Persons who may adopt. Other blood relatives
    - § 22. Persons who may be adopted. Blood relatives; natural children
  - 2 C.J.S. *Adoption of Persons* (1972).
    - §§ 13-17. Persons who may adopt
    - §§ 18-24. Persons who may be adopted
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).
    - Chapter 5. Adoption and parental rights
      - § 5.4. Who may give minors in adoption
  - Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).
    - "Relative adoption," p. XVIII-8
  - 6 ARNOLD H. RUTKIN, GEN. ED., FAMILY LAW AND PRACTICE (2002).
    - Chapter 64. Adoption law, procedure and practice
      - § 64.07. Who may adopt
      - § 64.08. Who may be adopted
  - 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).
    - Chapter 4. Adoption
      - § 4:08. Who may adopt
  - 2 Ann M. Haralambie, *Handling Child Custody, Abuse and Adoption Cases* (2d Ed. 1993).
    - Chapter 14. Adoption
      - § 14.06. Unmarried fathers
      - § 14.07. Unnamed fathers
      - § 14.09. Rights of grandparents
- LAW REVIEWS:**
- Richard Hoffman, Note, *Grudging And Crabbed Approach To Due Process For The Unwed Father*, 16 CONNECTICUT LAW REVIEW 571 (1984).
  - Deborah L. Forman, *Unwed Fathers and Adoption: A Theoretical Analysis in Context*, 72 TEXAS LAW REVIEW 967 (1994). [Available at the Law Library at Norwich]
- COMPILER:**
- Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

**Table 12: Who May Give a Child in Adoption?**

<b>Who May Give a Child in Adoption</b>	
<b>Statutory parent</b>	CGS § 45a-724(a)(1)
<b>Stepparent</b>	CGS § 45a-724(a)(2)
<b>Blood relative</b>	CGS § 45a-724(a)(3)

**Table 13: Statutory Parent and Adoption**

<b>Statutory Parent and Adoption</b>	
<b>Definition</b>	“the Commissioner of Children and Families or the child-placing agency appointed by the court for purpose of giving a minor child or minor children in adoption.” Conn. Gen. Stats. § 45a-707(7)
<b>Appointment</b>	Conn. Gen. Stats. §§ 45a-717, 45a-718(a), 17a-112
<b>Duties</b>	Conn. Gen. Stats. § 45a-718(b)
<b>Removal</b>	Conn. Gen. Stats. § 45-718( c)
<b>Resignation</b>	Conn. Gen. Stats. § 45-718( c)

## Section 2.4

# Consent to Adoption

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to procedures for consenting to adoption including withdrawal or revocation of consent
- DEFINITION:**
- “To complete an adoption, two steps are essential. First, there must be an agreement to give and receive the child in adoption, and second, there must be approval of the agreement by a Probate Court having jurisdiction.” Killen v. Klebanoff, 140 Conn. 111, 115, 98 A.2d 520 (1953).
  - “The right to custody has never been an absolute right, which could be bargained away or disposed of or transferred by either parent, except by giving in adoption with the approval of a Court of Probate in a manner prescribed by statute.” Dunham v. Dunham, 97 Conn. 440, 442, 117 A. 504 (1922).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - Chapter 803. Termination of parental rights and adoption
    - § 45a-724. Consent of child who has attained the age of 12
    - § 45a-727. Application and agreement of adoption
    - § 45a-732. Husband and wife to join in adoption
- LEGISLATIVE:**
- LAWRENCE K. FURBISH, BACKGROUND ON ADOPTION, Connecticut General Assembly, Office of Legislative Research Report 94-R-703 (December 5, 1994).  
URL: <http://www.cga.state.ct.us/ps98/rpt/olr/98%2Dr%2D0285.doc>
- FORMS:**
- 1A AM JUR LEGAL FORMS 2D *Adoption* (1999 Rev.)
    - §§ 9:18 - 9:30. Consent to adoption
    - § 9:31. Refusal to consent
    - § 9:32. Withdrawal of consent
  - 1 NICOLS CYCLOPEDIA OF LEGAL FORMS ANNOTATED (1987 Rev.)
    - §§ 1.785-1.791. Consent to adoption
- WEST KEY NUMBER:**
- *Adoption* # 7. Consent of the parties
- DIGESTS:**
- DOWLING’S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- COURT CASES :**
- Killen v. Klebanoff, 18 Conn. Supp. 177, 180, 87 A.2d 388 (1952). “Consent lies at the foundation of statutes of adoption and when it is required to be given and submitted the court cannot take jurisdiction of the subject matter without it.”
  - Bailey v. Mars, 138 Conn. 593, 87 A.2d 388 (1952). *Withdrawal of consent to adopt.*

- Meleski v. Havens, 129 Conn. 238, 27 A.2d 159(1942). *Fraudulent representation*.

#### ENCYCLOPEDIAS:

- 2 AM. JUR. 2D *Adoption* (1994).
  - §§ 60-110. Consent to adoption
    - §§ 63-95. Consent of particular person
    - §§ 96-102. Validity of consent; Formal requirements
    - §§ 103-110. Revocation or withdrawal of consent
- 2 C.J.S. *Adoption of Persons* (1972).
  - §§ 51-72. Consent of parties
- Claudia G. Catalano, Annotation, *Natural Parent's Indigence As Precluding Finding That Failure To Support Child Waived Requirement Of Consent To Adoption—Factors Other Than Employment Status*, 84 ALR5th 191 (2000).
- Claudia G. Catalano, Annotation, *Natural Parent's Indigence Resulting From Unemployment Or Underemployment As Precluding Finding That Failure To Support Child Waived Requirement Of Consent To Adoption*, 83 ALR5th 375 (2000).
- Claudia G. Catalano, Annotation, *Comment Note: Natural Parent's Indigence As Precluding Finding That Failure To Support Child Waived Requirement Of Consent To Adoption—General Principles*, 82 ALR5th 443 (2000).
- Ardis L. Campbell, Annotation, *Rights Of Unwed Father To Obstruct Adoption Of His Child By Withholding Consent*, 61 ALR5th 151 (1998).
- Tracy A. Bateman, Annotation, *Validity Of Birth Parent's "Blanket" Consent To Adoption Which Fails To Identify Adoptive Parents*, 15 ALR5th 1 (1993).
- Sara L. Johnson, Annotation, *Required Parties In Adoption Proceedings*, 48 ALR4th 860 (1986).
- *Undue influence in obtaining parent's consent to adoption of child*, 8 POF2D 481 (1976).
- *Revocation Of Consent To Adopt*, 14 COA 817 §1 et seq.
- *Guardian's Arbitrary And Unreasonable Withholding Of Consent To Adoption*, 23 POF2D 163 (1980).
- Gary D. Spivey, Annotation, *Mistake Or Want Of Understanding As Ground For Revocation Of Consent To Adoption Or Of Agreement Releasing Infant To Adoption Placement Agency*, 74 ALR3d 489 (1976).
- Gary D. Spivey, Annotation, *Duress In Obtaining Parent's Consent To Adoption Of Child Or Surrender Of Child To Adopting Agency*, 74 ALR3d 527 (1976).
- Gary D. Spivey, Annotation, *Natural Parent's Right To Withdrawal Of Valid Consent To Adoption Of Child*, 74 ALR3d 421 (1976).
- Jack W. Shaw, Annotation, *What Constitutes Undue Influence In Obtaining A Parent's Consent To Adoption Of Child*, 50 ALR3d 918 (1973).
- Annotation, *Natural Parents' Consent As Essential To Adoption Where Parents Are Divorced*, 47 ALR2d 824 (1956).
- Annotation, *Sufficiency Of Parent's Consent To Adoption Of Child*, 24 ALR2d 1127 (1952).

#### TEXTS & TREATISES:

- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).
  - Chapter 5. Adoption and parental rights
    - § 5.4. Who may give minors in adoption
- Dianne E. Yamin, Hon., *Adoption: Law and Practice*, in CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).

- 1 Joan H. Hollinger et al., *Adoption Law And Practice* (2001).  
     Chapter 2. Consent to Adoption  
         § 2.02. Whose consent is necessary  
         § 2.03. Mother of the child  
         § 2.04. Father of the child  
         § 2.05. Consent when mother or father is a minor  
         § 2.06. Consent when child has only one or no living parent;  
             Appointment of a legal guardian  
         § 2.07. Consent by adoption agency  
         § 2.08. Consent of adoptee  
         § 2.09. Special situations  
         § 2.10. Exceptions to the requirement of parental consent  
         § 2.11. Procedure for obtaining consent  
         § 2.12. Revocation of consent
- 6 ARNOLD H. RUTKIN, GEN. ED., *FAMILY LAW AND PRACTICE* (2002).  
     Chapter 64. Adoption law, procedure and practice  
         § 64.10. Consent to adoption
- 1 THOMAS A. JACOBS, *CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS* (1995).  
     Chapter 4. Adoption  
         §§ 4:14 - 4:24. Consent requirements
- 1 DONALD T. KRAMER, *LEGAL RIGHTS OF CHILDREN* (2D ED. 1994).  
     Chapter 6. Adoption of Children and Other Arrangements  
         § 6.05. Consent, or lack of consent, to adopt  
         § 6.07. —Withdrawal of consent
- 2 ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (2D ED. 1993).  
     Chapter 14. Adoption  
         § 14.11. Voluntary relinquishment and parental consent  
         § 14.12. Revocation of parental consent  
         § 14.13. Waiver of consent  
         § 14.14. Consent of child  
         § 14.15. Agency consent

**LAW REVIEWS:**

- Note, *Adoption—Withdrawal Of Statutory Consent As Affecting Court's Jurisdiction—Bailey v. Mars*, 138 Conn. 593 (1952), 26 CONNECTICUT BAR JOURNAL 314
- Michelle De Garneau, Note, *Fraud In The Inducement And Mistake Of Fact In The Adoption Process: Reevaluating The Best Interest Of The Child With Special Needs*, 2 Connecticut Probate Law Journal pp. 83 (Fall 1986).
- Kathleen M. Lynch, *Adoption: Can Adoptive Parents Change Their Minds?* 26 FAMILY LAW QUARTERLY 257 (Fall 1992).
- LEGALTRAC® SUBJECT HEADING: ***Adoption—forms***

**COMPILER:**

Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

## Section 2.5

# Adoption Agreements

*A Guide to Resources in the Law Library*

- SCOPE:**
- Bibliographic resources relating to agreements to adopt.
- SEE ALSO:**
- For provisions concerning visitation after adoption see [Open Adoptions § 2.6](#)
- DEFINITION:**
- “To complete an adoption . . . there must be an agreement to give and receive the child in adoption . . . The fundamental basis of the proceeding is the agreement. If the purported agreement is void, there is nothing which the Probate Court can approve.” *Killen v. Klebanoff*, 140 Conn. 111, 115-116, 98 A.2d 520 (1953).
  - “Each adoption matter shall be instituted by filing an application in a court of probate, together with the written agreement of adoption, in duplicate.” CONN. GEN. STATS. § 45a-727(a)(1) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)  
§ 45a-727. Application and agreement of adoption
- FORMS:**
- Probate Court Forms  
PC-681. Agreement of Adoption
  - 1A AM JUR LEGAL FORMS 2D *Adoption* §§ 9:51-9:56
  - 1A AM JUR PLEADING AND PRACTICE FORMS 341-343
- DIGESTS:**
- WEST KEY NUMBER: *Adoption* # 6 Agreement to adopt
  - DOWLING’S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- COURT CASES:**
- *Michaud v. Wawrack*, 209 Conn. 407, 551 A.2d 738, 78 ALR4TH 209 (1988). *Contract between genetic and adoptive parents for visitation does not violate public policy.*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).  
§§ 43-59. Agreements regarding adoption  
§§ 43-46. In general  
§ 46. Checklist; matters to consider when drafting adoption agreements  
§§ 52-59. Enforcement
  - 2 C.J.S. *Adoption of Persons* (1972).  
§§ 25-40. Contracts or agreements to adopt
  - 1A AM JUR LEGAL FORMS 2D *Adoption* §§ 59:1 et seq.
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5.9. Adoption agreements, visitation rights of genetic parents

- Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).
- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).  
Chapter 4. Adoption  
§ 4:02. Open adoption

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## Section 2.6

# Open Adoptions

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to contracts with the adopting parents, prior to adoption, for the continued visitation after adoption
- DEFINITION:**
- **Open adoption.** “The plaintiff does not seek to ‘open,’ to set aside or to diminish in any way the adoptive process that has substituted the defendants as the legal parents of the child. The plaintiff’s rights are not premised on an ongoing genetic relationship that somehow survives a termination of parental rights and an adoption. Instead the plaintiff is asking us to decide whether, as an adult who has an ongoing personal relationship with the child, she may contract with the adopting parents, prior to adoption, for the continued right to visit with the child, so long as that visitation continues to be in the best interest of the child.”[emphasis added]. Michaud v. Wawrack, 209 Conn. 407, 412-413, 551 A.2d 738, 78 ALR4th 209 (1988).
- STATUTES:**
- CONN. GEN. STAT. (2003).  
§ 45a-715. Petition to terminate parental rights. Cooperative postadoption agreements
- FORMS:**
- 1A AM JUR LEGAL FORMS 2D *Adoption*  
§ 9:60. Adoption agreement—visitation by natural parents  
§ 9:61. Adoption agreement—visitation by natural grandparents  
§ 9:61. Adoption agreement—visitation with natural siblings
  - Michaud v. Wawrack, 209 Conn. 407, 551 A.2d 738, 78 ALR 4<sup>th</sup> 209 (1988), footnote #1, p.409. Excerpt from “Open Adoption and Visitation Agreement.”
- DIGESTS:**
- WEST KEY NUMBER: *Adoption*
  - DOWLING’S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- CASES :**
- Michaud v. Wawrack, 209 Conn. 407, 551 A.2d 738, 78 ALR4th 209(1988). *Contract between genetic and adoptive parents for visitation does not violate public policy.*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).  
§ 174. Visitation; “open adoption”  
§ 175. —Visitation agreement with natural parents
  - 2 C.J.S. *Adoption of Persons* (1972).  
§ 139. Effect of adoptin on natural parent
  - Danny R. Veilleux, Annotation, *Postadoption visitation by natural parents*, 78 ALR4th 218 (1990).
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM , *INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT* 3d (2002).

Chapter 5. Adoption and Parental Rights

§ 5:18. Post-adoption agreements

- Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).
- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).

Chapter 4. Adoption

§ 4:02. Open adoption

- 1 DONALD T. KRAMER, LEGAL RIGHTS OF CHILDREN (2D ED. 1994).

Chapter 6. Adoption of Children and Other Arrangements

§ 6.11. Visitation rights after adoption

- 2 ANN M. HARALAMBIE, HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES (2D ED. 1993).

Chapter 14. Adoption (1993).

§ 14.21. Open adoption

**LAW REVIEWS:**

- Laurie A. Ames, *Open Adoptions: Truth And Consequences*, 10 CONNECTICUT FAMILY LAW JOURNAL 89 (1992).
- Lawrence W. Cook, *Open Adoption: Can Visitation With Natural Family Members Be In The Child's Best Interest?* 30 JOURNAL OF FAMILY LAW 471 (1992).
- Judy E. Nathan, *Visitation After Adoption: In The Best Interest Of The Child*, 59 NEW YORK UNIVERSITY LAW REVIEW 633(1984).
- Carol Amadio & Stuart L. Deutsch, *Open Adoption: Allowing Adopted Children To 'Stay In Touch' With Blood Relatives*, 22 JOURNAL OF FAMILY LAW 59 (1983-84).

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**Table 14 Cooperative Postadoption Agreement**

**CONN. GEN. STAT. § 45a-715 (2003)**

(j) A cooperative postadoption agreement shall contain the following: (1) An acknowledgment by either or both birth parents that the termination of parental rights and the adoption is irrevocable, even if the adoptive parents do not abide by the cooperative postadoption agreement; and (2) an acknowledgment by the adoptive parents that the agreement grants either or both birth parents the right to seek to enforce the cooperative postadoption agreement.

(k) The terms of a cooperative postadoption agreement may include the following: (1) Provision for communication between the child and either or both birth parents; (2) provision for future contact between either or both birth parents and the child or an adoptive parent; and (3) maintenance of medical history of either or both birth parents who are a party to the agreement.

**Table 15 Excerpts from an Open Adoption and Visitation Agreement**

**The "Open Adoption and Visitation Agreement" provides in relevant part:**

"1. **Adoption.** The parties shall all cooperate fully with the state DCYS in the orderly completion of an adoption of the child by the adopting parents.

2. **Termination of Rights.** The natural mother will withdraw here legal challenge . . . as soon as the adopting parents have approval of their adoption application by DCYS.

3. **Visitation.** The adopting parents will cooperate fully with the natural mother in the natural mother's visits with the child both now and after the adoption takes place until the child's 18th birthday. The parties agree to be guided in carrying out this provision by the present laws of Connecticut regarding reasonable visitation, which are partly embodied in Connecticut General Statutes Section 46b-56, as they pertain to visitation rights of non-custodial parents in dissolutions of marriage. The tender age of the child and her high sensitivity to her, up to the present, state of uncertainty shall be taken into account by the parties.

Each of the parties shall at all times in good faith endeavor to maintain in the child respect and affection for the other parties. The rights of visitation shall not be exercised by the natural mother at any time or in such a manner as to interfere with the education and normal social and school activities of the child.

Visitation shall be twice a month for three (3) hours each visit at the Wawrucks' home."

Michaud v. Wawruck, 209 Conn. 407, 409, 551 A.2d 738 (1988).

Table 16: Adoption Review Board

Adoption Review Board	
<b>Powers</b>	<ul style="list-style-type: none"> <li>“ . . . the adoption review board may, upon application, notice of hearing . . . for cause shown that it is in the best interest of the minor child, waive the requirement that the minor child be placed by the commissioner of children and families or a child placing agency.” Conn. Gen. Stats. § 45a-764(a).</li> <li>“Any judge of probate who has had presented to him an application for adoption which may not proceed because the child has not been so placed may apply in writing to the Adoption Review Board for a waiver of such requirement.” Conn. Gen. Stats. § 45a-764(b).</li> </ul>
<b>Membership</b>	Conn. Gen. Stats. § 45a-763(a)
<b>Qualifications of members</b>	Conn. Gen. Stats. § 45a-763(b)
<b>Application</b>	Conn. Gen. Stats. § 45a-764(a)
<b>Notice and hearing</b>	Conn. Gen. Stats. § 45a-764(d)
<b>Evidence</b>	Conn. Gen. Stats. § 45a-764(e)
<b>Records</b>	Conn. Gen. Stats. § 45a-765
<b>OLR Report # 99-r-0531</b>	<i>Adoption Review Board</i> by Lawrence K. Furbish

## Section 2.7

# Identified Adoptions

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*A Guide to Resources in the Law Library*

- SCOPE:**
- Bibliographic resources relating to identified adoptions in Connecticut.
- SEE ALSO:**
- [§ 2.1 Adoption by Nonrelated Persons](#)
- DEFINITION:**
- **Identified adoptions.** “The commissioner or a child-placing agency may place a child in adoption who has been identified or located by a prospective parent, provided any such placement shall be made in accordance with regulations promulgated by the commissioner pursuant to section 45a-728. If any such placement is not made in accordance with such regulations, the adoption shall not be approved by the court of probate.” CONN. GEN. STATS. § 45a-727(a)(3) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 45a-728. Regulations concerning adoption placement of children identified or located by prospective parents
    - § 45a-728a. Participation in birth and visitation of newborn identified or located by prospective parents
    - § 45a-728b. Discharge of newborn identified for adoption from hospital. Prospective adoptive parents permitted to attend hospital programs re infant care.
    - § 45a-728c. Payment of expenses of birth mother by prospective adoptive parents
    - § 45a-728d. Advertising by birth parent and prospective adoptive parent for purpose of identified adoption
    - § 45a-729. Penalty for violation of provisions re adoption placement
- LEGISLATIVE HISTORY:**
- 1985 CONN. ACTS 285 (Reg. Sess.)
- “Presently [1985] in the State of Connecticut all adoptions go through agencies exclusively. This [bill] will allow for identified adoptions. Individuals may identify a certain individual who may be pregnant, and they would go through the agency nevertheless, but that child would be earmarked for that person or that family.” Rep. Wollenberg, vol. 28 pt. 14 House Proceedings p. 5089 [fiche 93 of 244]
- LEGISLATIVE:**
- LAWRENCE K. LAWRENCE K. FURBISH, ADOPTION REVIEW BOARD AND IDENTIFIED ADOPTIONS, Connecticut General Assembly, Office of Legislative Research Report # 96-r-1064 (September 9, 1996). URL: <http://www.cga.state.ct.us/ps96/rpt/olr/96%2Dr%2D1064.doc>  
“You asked if either the Adoption Review Board or the identified adoption process could benefit a couple who had taken a child to live with them in New Hampshire, later moved to Connecticut, and now wish to adopt the child.”

- REGULATIONS:**
- CONN. AGENCIES REGS. § 45a-728-1 et seq. (eff. Feb. 1, 1994)  
Adoption placement of children who have been identified or located by prospective adoptive parents [see Table 17]
- FORMS:**
- Probate Court Forms  
PC-603. Application/Adoption  
PC-610. Affidavit/ Temporary Custody, Removal, Termination or Adoption  
PC-681. Agreement of Adoption  
PC-663. Decree/Adoption  
PC-650. Adoption/Certificate
- DIGESTS:**
- WEST KEY NUMBER: *Adoption*
  - DOWLING'S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- ENCYCLOPEDIAS:**
- 2 C.J.S. *Adoption of Persons* (1972).
  - 2 AM. JUR. 2D *Adoption* (1994).
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM , INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5:39. Birth mother's financial affidavit, identified adoption (PC-611)  
§ 5:40. Adoptive parent's financial affidavit, identified adoption (PC-612)  
§ 5:41. Agency or department financial affidavit, identified adoption (PC-613).
  - Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).  
Identified Adoptions, XVIII-8 to -9
  - 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).  
Chapter 4. Adoption  
§§ 4:09-4:13. Adoption services
  - 1 DONALD T. KRAMER, LEGAL RIGHTS OF CHILDREN (2D ED. 1994).  
Chapter 6. Adoption of Children and Other Arrangements
  - 2 ANN M. HARALAMBIE, HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES (2D ED. 1993).  
Chapter 14. Adoption (1993).  
§ 14.7. Agency adoption and placement
- COMPILER:**
- Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

**Table 17: Regulations on Identified Adoptions**

<b>Regulations on Identified Adoptions</b>	
<b>Scope of regulations.</b> The Commissioner or a Child Placing Agency may place a child in adoption who has been identified or located by a prospective adoptive parent provided any such placement shall be made in accordance with these regulations. If any such placement is not made in accordance with these regulations, the Probate Court shall not approve the adoption application. (Effective February 1, 1994).	45a-728-1
Definitions	45a-728-2
Restricted activities and penalties	45a-728-3
Permissible activities for non-approved child placing agencies	45a-728-4
Prospective adoptive parents—homestudy	45a-728-5
Prospective adoptive parents—permissible activities	45a-728-5a
Advertising	45a-728-6
Birth parent counseling	45a-728-7
Permissible payments by prospective adoptive parents and/or child placing agencies involved in identified placements <ul style="list-style-type: none"> <li>(a) Living expenses of birth mother</li> <li>(b) Transportation, lodging, food expenses</li> <li>(c) Counseling expenses</li> <li>(d) Foster care expenses</li> <li>(e) Maternity home expenses</li> <li>(f) Medical expenses</li> </ul>	45a-728-8
Provision for less affluent to participate	45a-728-9
Financial affidavits	45a-728-10

## Section 2.8

# Special Needs Adoptions

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to adoption of special needs children including adoption subsidies
- DEFINITION:**
- **Special needs child** “is a child who is a ward of the commissioner of children and families or is to be placed by a licensed child-placing agency and is difficult to place in adoption because of one or more conditions including, but not limited to, physical or mental disability, serious emotional maladjustment, a recognized high risk or physical or mental disability, age or racial or ethnic factors which present a barrier to adoption or is a member of a sibling group which should be placed together, or because the child has established significant emotional ties with prospective adoptive parents while in their care as a foster child and has been certified as a special needs child by the commissioner of children and families.” CONN. GEN. STATS. § 17a-116 (2003).
  - Adoption Assistance Program, 42 U.S.C. § 673(a)(2)(C )
- STATUTES:**
- 42 U.S.C.
    - § 670 et seq. Adoption Assistance and Child Welfare Act
      - eligibility 42 USC § 673(a)(2)(A),(B)
    - §§ 5111 et seq. Child Abuse Prevention and Adoption Reform Act
  - CONN. GEN. STAT. (2003)
    - § 17a-116. “Special needs” child defined
    - § 17a-116a. Information handbook re adoption of children with special needs
    - § 17a-116c. Minority recruitment specialist for foster and adoptive families. Duties. Cultural sensitivity training
    - § 17a-116d. Interstate Compact On Adoption And Medical Assistance
    - § 17a-117. Subsidies for adopting parents. Adoption Subsidy Review Board [see Table 18]
    - § 17a-118. Review and change in subsidy. Adoption Subsidy Review Board [see Table 18]
    - § 17a-119. Moneys for subsidies. Regulations.
    - § 17a-120. Medical expenses subsidy for blind, physically or mentally disabled, emotionally maladjusted or high risk children
    - § 17a-121. Prior subsidies not affected. Increases
- REGULATIONS:**
- 45 CFR § 1356.40 (October 2002). Adoption assistance program: Administrative requirements to implement section 473 of the Act.
  - CONN. AGENCIES REGS. §§ 17a-116-6 to 17a-120-9 (Effective. March 22, 1994)
    - § 17a-116-8 Criteria for certification as a special needs child

- § 17a-116-9 Type and duration of subsidy
- § 17a-116-11 When subsidy is granted
- § 17a-116-14 Adoption Subsidy Review Board [see Table 18]

**FORMS:** Adoption Assistance Agreement, 42 U.S.C. § 675(3) (2002). Description and content.

- DIGESTS:**
- WEST KEY NUMBER:  
    *Social Security And Public Welfare* # 4, 194 et seq.
  - DOWLING'S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*

- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).  
    §§ 34-42. Federal adoption assistance programs
  - 81 C.J.S. *Social Security and Public Welfare* (1977).  
    § 10. Relief and welfare funds generally  
    §§ 113 et seq. Family, maternal and child welfare assistance

- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
    Chapter 5. Adoption and Parental Rights  
    § 5:10. Procedure on adoption of minors, identified, and hard-to-place children
  - Dianne E. Yamin, Hon., *Adoption: Law and Practice, in Connecticut LAWYERS' DESKBOOK: A REFERENCE MANUAL*, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).  
    "Special needs/Subsidized adoptions," XVIII-9 to -10
  - SHIRLEY R. BYSIEWICZ, ed., *JUVENILE LAW HANDBOOK*. (1984).
  - 2 JOAN H. HOLLINGER ET AL., *ADOPTION LAW AND PRACTICE* (2001).  
    Chapter 9. Adoption Assistance for Children with Special Needs  
    Appendix 9-A. State and federal materials relating to adoption of children with special needs
  - 6 ARNOLD H. RUTKIN, GEN. ED., *FAMILY LAW AND PRACTICE* (2002).  
    Chapter 64. Adoption law, procedure and practice  
    § 64.04. [5]. Special needs adoption
  - 1 THOMAS A. JACOBS, *CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS* (1995).  
    Chapter 4. Adoption  
    §§ 4:41-4:47. Adoption assistance
  - DONALD T. KRAMER, *LEGAL RIGHTS OF CHILDREN* (2D Ed. 1994).  
    Chapter 6. Adoption of Children and Other Arrangements  
    § 6.10. Adoption Assistance and Child Welfare Act.
  - ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (2D ED. 1993).  
    Chapter 14. Adoption (1993)  
    § 14.22. Subsidized adoption

- LAW REVIEWS:**
- Susan L. Brooks, *Rethinking Adoption: a Federal Solution to the Problem of Permanency Planning for Children with Special Needs*, 66 NEW YORK UNIVERSITY LAW REVIEW 1130 (1991).  
    [Available at the Norwich Law Library]
  - LEGALTRAC® KEY WORD SEARCH: *Adoption and Special Needs*

**COMPILER:**

Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial  
Department, Law Library at Middletown, One Court Street, Middletown, CT  
06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

**Table 18: Adoption Subsidy Review Board**

<b>Adoption Subsidy Review Board</b>	
<b>Purpose</b>	CONN. GEN. STATS.§ 17a-117(c)
<b>Composition</b>	CONN. GEN. STATS.§ 17a-117(c)
<b>Procedures</b>	CONN. GEN. STATS.§§ 17a-118(a), 17a-120(b)
<b>Use of best interest of the child standard</b>	CONN. GEN. STATS.§ 17a-117(c)
<b>Regulations</b>	CONN. AGENCIES REGS. §§ 17a-116-14, 17a-120-9

# Section 2.9

## Foster Parents and Adoption

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the role of foster parents in adoption including the rights of foster parents in an adoption
- DEFINITION:**
- " 'Child in Foster Care' means a child residing with an adult who is approved by the Department of Children and Families (DCF) to stand in loco parentis for the child and on whose behalf foster care payments are being made by DCF." CONN. AGENCIES REGS. § 8-210b-9a (eff. August 11, 1994).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-96. Custodians of children to file reports. Placing of child in foster home
    - § 17a-98. Supervision of children under guardianship or care of Commissioner of child and families
    - § 17a-110. Permanency planning for children. Definitions. Procedure after commitment hearing. Regulations. Central registry. Duties of Commissioner
    - § 45a-726a. Considerations of sexual orientation of foster parents
    - § 46b-129. Commitment of child or youth .
      - (o). A foster parent shall have standing for the purposes of this section in Superior Court in matters concerning the placement or revocation of commitment of a foster child living with such parent. A foster parent shall receive notice of any motion to revoke commitment or any hearing on such motion. A foster parent who has cared for a child or youth for not less than six months shall have standing to comment on the best interests of such child or youth in any matter under this section which is brought not more than one year after the last day the foster parent provided such care.
  - Social Security Act, Part IV-E (42 USC §§ 670-677)
- LEGISLATIVE:**
- SAUL SPIGEL AND CHELSEA TURNER, FOSTER PARENTS, Connecticut General Assembly, Office of Legislative Research Report 98-R-0285 (March 13, 1998). <http://www.cga.state.ct.us/ps98/rpt/olr/98-r-0285.doc>  
Foster parents' liability for the violent acts of foster children in their care. Common law and statutory liability in Connecticut and other states. Includes table.
- REGULATIONS:**
- CONN. AGENCIES REGS. § 17a-100-1 et seq. (eff. February 20, 1997)

## Removal Hearings for Out of Home Care Providers

### DIGESTS:

- WEST KEY NUMBER: *Infants* # 226
- DOWLING'S DIGEST *Adoption*
- CONNECTICUT FAMILY LAW CITATIONS *Adoption*

### CASES

- Hunte v. Blumenthal, 238 Conn. 146, 167, 680 A.2d 1231(1996). "Under our well established 'right to control' test, we conclude that the plaintiffs, in their role as foster parents, were 'employees' of the state as that term is used in §§ 4-141, 4-165 and 5-141d."
- Smith v. Organization of Foster Family for Equality & Reform, 431 U.S. 816, 97 S.Ct. 2094, 53 L.Ed. 2d 14 (1977). *Due process rights of foster parents*

### ENCYCLOPEDIAS:

- 2 AM. JUR. 2D *Adoption* (1994).
  - § 18. Persons who may adopt. Foster parents
  - § 20. Persons who may be adopted. Generally
  - § 142. Relation of petitioner to person sought to be adopted —Foster parents
- 2 C.J.S. *Adoption of Persons* (1972).
  - § 16. Persons who may adopt. Tutor or guardian
- Kristine Cordier Karnezis, Annotation, *Validity And Enforcement Of Agreement By Foster Parent That They Will Not Attempt To Adopt Foster Child*, 78 ALR3d 770 (1977).

### TEXTS & TREATISES:

- ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (2D ED. 1993).
  - Chapter 14. Adoption
    - § 14.10. Rights of foster parents
- RALPH H. FOLSOM & GAYLE B. WILHELM, *INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT* 3d (2002).
  - Chapter 5. Adoption and Parental Rights
- MARK I. SOLER ET AL. *REPRESENTING THE CHILD CLIENT* (1987).
  - § 2.03[2]. Constitutional and state tort claims of children in foster care.
- SHIRLEY R. BYSIEWICZ, ed., *JUVENILE LAW HANDBOOK*. (1984).
  - "Foster Parents."
- Dianne E. Yamin, Hon., *Adoption: Law and Practice, in Connecticut LAWYERS' DESKBOOK: A REFERENCE MANUAL*, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).

### LAW REVIEWS:

- Mitchell W. Pearlman, *Foster Parents Rights In Connecticut*, 5 CONNECTICUT LAW REVIEW 36 (1972).
- Matthew R. Asman, Note, *The Rights of a Foster Parent Versus the Biological Parent Who Abandoned the Child: Where Do the Best Interest of the Child Lie?* CONNECTICUT PROBATE LAW JOURNAL 93 (1993).
- LEGALTRAC® SUBJECT HEADING: *Foster Parents*

### COMPILER:

Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

## Section 2.10

# International and Out of State Adoptions in Connecticut

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*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to recognition of foreign or out-of-state adoptions by Connecticut courts
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 17a-152. Placement of child from another state
    - § 17a-175. Interstate Compact on the Placement of Children
    - § 45a-730. Validation of foreign adoption. Petition filed in probate court
- LEGISLATIVE:**
- SAUL SPIGEL , INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN, Connecticut General Assembly, Office of Legislative Research No. 99-r-0327 (February 22, 1999). URL: <http://www.cga.state.ct.us/ps99/rpt/olr/htm/99-r-0327.htm>
  - LAWRENCE K. FURBISH, INTERSTATE ADOPTION COMPACTS, Connecticut General Assembly, Office of Legislative Research No. 94-r-0795 (November 18, 1994). URL: <http://www.cga.state.ct.us/ps94/rpt/olr/94%2Dr%2D0795.doc>

“You asked which state’s law would control in an adoption taking place through the Interstate Compact on Placement of Children: the state where the adoption is being finalized, the state of the birth mother, or the state of the adopting parents?”
- CASES:**
- Nancy G. v. Department of Children and Families, 248 CONN. 672, 733 A.2d 136 (1999). *Appeal from decision of Adoption Subsidy Review Board on a child adopted from India.*
- DIGESTS:**
- WEST KEY NUMBER: *Adoption*
  - DOWLING’S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).
    - § 27. Governing law; recognition of foreign decrees
    - §§ 28-33. Interstate Compact on Placement of Children
  - 2 C.J.S. *Adoption of Persons* (1972).
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM , INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).

Chapter 5. Adoption and Parental Rights

§ 5:15. Out-of-state and out-of-country adoptions

- Dianne E. Yamin, Hon., *Adoption: Law and Practice, in CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL*, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).
  - “Out of State Adoptions,” XVIII-10
  - “International Adoptions,” XVIII-10-11
  - Introduction
  - United States Immigration and Naturalization Service
  - Citizenship
  - Requirements of foreign adoption
  - Validation of foreign adoptions
- 2 JOAN H. HOLLINGER ET AL., *ADOPTION LAW AND PRACTICE* (2001).
  - Chapter 10. International adoption: Overview
  - Chapter 11. International adoption: Legal requirements and practical considerations
  - Appendix 11-A. International Adoption: Forms and Directories
- 6 ARNOLD H. RUTKIN, GEN. ED., *FAMILY LAW AND PRACTICE* (2002).
  - Chapter 64. Adoption law, procedure and practice
    - § 64.04[6]. International adoptions
    - § 64.21. The Interstate Compact on the Placement of Children
    - § 64.22. Indian Child Welfare Act
- 1 THOMAS A. JACOBS, *CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS* (1995).
  - Chapter 4. Adoption
    - §§ 4:72-4:74. Interstate adoptions
    - §§ 4:75-4:77. International adoptions
- 2 ANN M. HARALAMBIE, *HANDLING CHILD CUSTODY, ABUSE AND ADOPTION CASES* (2d ed. 1993).
  - Chapter 14. Adoption (1993).
    - § 14.19. Interstate adoption
    - § 14.20. International adoption

**LAW REVIEWS:**

- Herma H. Kay, *Adoption In The Conflict Of Laws: The UAA, Not The UCCJA, Is The Answer*, 15 *CONNECTICUT FAMILY LAW JOURNAL* 37 (1997).
- Pamela R. Zeller, Note, *Latin American Adoptions In Connecticut—Is There Any Room For Lawyers?* 10 *UNIVERSITY OF BRIDGEPORT LAW REVIEW*, 115 (Winter 1989).
- Peter H. Pfund, *Intercountry Adoption: The 1993 Hague Convention: Its Purpose, Implementation and Promise*, 28 *FAMILY LAW QUARTERLY* 53 (Spring 1994).
- LEGALTRAC® SUBJECT HEADING: *Intercountry Adoption*  
*Adoption—international aspects*

**INTERNET:**

- [http://travel.state.gov/children's\\_issues.html#adoption](http://travel.state.gov/children's_issues.html#adoption)  
Foreign adoptions compiled by U.S. State Department
- [http://www.law.cornell.edu/topics/Table\\_Adoption.htm](http://www.law.cornell.edu/topics/Table_Adoption.htm)  
Adoption laws of the fifty states, District of Columbia, and Puerto Rico

**COMPILER:**

Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

## Section 2.11

# Adult Adoptions

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to adoptions of adults in Connecticut
- DEFINITION:**
- **Adult adoption:** “Any person eighteen years of age or older may, by written agreement with another person at least eighteen years of age but younger than himself, unless the other person is his or her wife, husband, brother, sister, uncle or aunt of the whole or half-blood, adopt the other person as his child, provided the written agreement shall be approved by the court of probate for the district in which the adopting parent resides or, if the adopting parent is not an inhabitant of this state, for the district in which the adopted person resides.” CONN. GEN. STATS. § 45a-734(a) (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - § 45a-734. Adoption of adults
    - § 45a-735. Husband or wife of adopted adult to consent
- FORMS:**
- 1A AM JUR LEGAL FORMS 2D (1999).
    - § 9:39. Adoption agreement—adult
    - § 9:40. Adoption agreement—adult—another form
- COURT CASES:**
- Strakosch v. Connecticut Trust & Safe Deposit Co., 96 Conn. 471, 114 A. 660 (1921).
- DIGESTS:**
- WEST KEY NUMBER: *Adoption*
  - DOWLING’S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).
    - § 21. Person who may be adopted. Adults, generally
  - 2 C.J.S. *Adoption of Persons* (1972).
    - § 19. Persons who may be adopted. Minors or adults
  - Annotation, *Adoption of Adult*, 21 ALR3d 1012 (1968).
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, *INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT* 3d (2002).
    - Chapter 5. Adoption and Parental Rights
      - § 5:1. Adoption of minors or adults
      - § 5:12. Procedure and limitations on adoption of adults
      - § 5:14. Legal consequences of adoptions
  - Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS’ DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).
    - “Adult adoptions,” XVIII-9
  - SHIRLEY R. BYSIEWICZ, ed., *JUVENILE LAW HANDBOOK*. (1984).

Special Needs Adoption, p. 10.

- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).

Chapter 4. Adoption

§ 4:07. Adoption of adults

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# Section 2.12

## Adoption and Birth Records

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*A Guide to Resources in the Law Library*

- SCOPE:** Availability and confidentiality of birth and adoption records in Connecticut including original birth certificate
- DEFINITIONS:**
- “It is the policy of the state of Connecticut to make available to adopted and adoptable persons who are adults (1) information concerning their background and status; to give the same information to their adoptive parent or parents; and, in any case where such adult persons are deceased, to give the same information to their adult descendants, including adopted descendants except a copy of their original birth certificate as provided by section 7-51; (2) to provide for consensual release of additional information which may identify the biological parents or relatives of such adult adopted or adoptable persons when release of such information is in the best interests of such persons; (3) except as provided in subdivisions (4) and (5), to protect the right to privacy of all parties to termination of parental rights, statutory parent and adoption proceedings; (4) to make available to any biological parent of an adult adopted or adult adoptable person, including a person claiming to be the father who was not a party to the proceedings for termination of parental rights, information which would tend to identify such adult adopted or adult adoptable person; and (5) to make available to any adult biological sibling of an adult adopted or adult adoptable person information which would tend to identify such adult adopted or adult adoptable person.” CONN. GEN. STATS. § 45a-744 (2003).
- STATUTES:**
- CONN. GEN. STAT. (2003)
    - Chapter 93. Registrars of Vital Statistics
      - § 7-42. Duties of Registrar of Vital Statistics
      - § 7-44. When authenticated copies of certificates to be transmitted to other towns. Use of electronic vital records system.
      - § 7-45. Preparation of certificates
      - § 7-48. Birth certificates: filing requirements
      - § 7-49. Failure to file birth certificate
      - § 7-51. Access to and examination and issuance of certified copies of birth and fetal death certificates restricted. Access to and disclosure of confidential information restricted.
      - § 7-52. Certification of birth registration
      - § 7-53. Birth certificates of adopted persons born in this state
      - § 7-54. Certification of birth registration of persons born outside the state or country and adopted by state residents
      - § 7-55. Certification of birth to have force and effect of original
      - § 7-57. Belated registration of births
      - § 7-58. Record of birth of child born outside United States

§ 7-59. Report of foundling children  
 Chapter 803. Part IV. Availability And Confidentiality of Adoption Records  
 § 45a-743. Definitions  
 § 45a-744. Legislative policy  
 § 45a-745. Adoption record  
 § 45a-746. Information available to adoptive parents and adult adopted or adoptable person  
 § 45a-747. Information regarding adoption completed before 10/1/77.  
 § 45a-749. Request for Information.  
 § 45a-750. Identifying information.  
 § 45a-751. Release of identifying information by child-placing agency or department  
 § 45a-751a. Conditions re release of information. Counseling  
 § 45a-751b. Disclosure of identifying information. Consent required  
 § 45a-752. Appeal to probate court. Advisory panel. Report. Hearing, Decision  
 § 45a-753. Obtaining consent of person whose identity is requested. Petition to court. Report. Hearing  
 § 45a-754. Record to be maintained in locked files. Disclosure for health or medical reasons  
 § 45a-755. Registries. Filing of registration  
 § 45a-756. Agreement to release identifying information. Notification. Fee  
 § 45a-757. Records maintained on permanent basis.

#### **LEGISLATIVE:**

- LAWRENCE K. FURBISH, ADULT ADOPTEDS' ACCESS TO INFORMATION IDENTIFYING THEIR BIOLOGICAL PARENTS, Connecticut General Assembly. Office of Legislative Research Report 98-R-436 (March 21, 1998).  
 URL: <http://www.cga.state.ct.us/ps98/rpt/olr/98-r-0436.doc>
- SEALED ADOPTION RECORDS: REPORT OF THE CONNECTICUT LEGISLATIVE REVISION COMMISSION TO THE JUDICIARY COMMITTEE OF THE CONNECTICUT GENERAL ASSEMBLY, prepared by David D. Biklen. February 17, 1999.  
 URL: <http://www.cga.state.ct.us/lrc/adoption/SealedRecordsReport.htm>
- BIBLIOGRAPHY, Connecticut Legislative Revision Commission (February 17, 1999).  
 URL: <http://www.cga.state.ct.us/lrc/adoption/Bibliography.htm>
- RELEASE TO ADOPTEE OF SEALED ADOPTION RECORDS, Proposed Draft, Connecticut Law Revision Commission (February 17, 1999).  
 URL:  
<http://www.cga.state.ct.us/lrc/adoption/Proposed1999Legislation.htm>

#### **REGULATIONS:**

- CONN. AGENCIES REGS. (2002)  
 § 7-53-1 Procedure with Regard to Original Birth Certificate  
 § 7-53-2 Procedure with Regard to Recording Book  
 § 7-53-3 Procedure with Regard to Certified Copies

#### **COURT CASES:**

- Sherry H. v. Probate Court, 177 Conn. 93, 411 A.2d 931 (1979). *Inspection of original birth certificate*
- Martin v. Martin, FA 930530304 (1995). *Husband's name put on birth certificate of child born prior to marriage not issue of husband.*

#### **ATTORNEY GENERAL**

- 23 OP.ATTY.GEN. 336 (March 29, 1944). Age of adopting parents
- 23 OP.ATTY.GEN. 444 (October 20, 1944). Adopting parent included in birth

**OPINIONS**

certificate

**ENCYCLOPEDIAS:**

- 2 AM. JUR. 2D *Adoption* (1994).  
§§ 207-212. Access to adoption records
- 39 AM. JUR. 2D *Health* (1999).  
§ 51. Data collection and reporting; vital statistics
- 66 AM. JUR. 2D *Records* (2001)  
§ 9. Correction or change
- 2 C.J.S. *Adoption of Persons* (1972).  
§ 48. Recording of instrument
- 39A C.J.S. *Health & Environment* (1976).  
§ 41. Registration of births and deaths
- Shannon Clark Kief, Annotation, *Restricting Access To Judicial Records Of Concluded Adoption Proceedings*, 103 ALR5th 255 (2002).
- Kristine C. Karnezis, Annotation, *Restricting Access To Judicial Records Of Concluded Proceedings*, 83 ALR3d 800 (1978).
- Kristine C. Karnezis, Annotation, *Restricting Access To Judicial Records Of Pending Proceedings*, 83 ALR3d 824 (1978)

**TEXTS &  
TREATISES:**

- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5:16. Confidentiality, access to adoption records
- Dianne E. Yamin, Hon., *Adoption: Law and Practice, in CONNECTICUT LAWYERS' DESKBOOK: A REFERENCE MANUAL*, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).  
Change of name; Birth certificate, XVIII-7  
Confidentiality of adoption records, XVIII-7  
Adoption searches, XVIII-7
- 6 ARNOLD H. RUTKIN, GEN. ED., FAMILY LAW AND PRACTICE (2002).  
Chapter 64. Adoption law, procedure and practice  
§ 64.23. Birth certificates
- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).  
Chapter 4. Adoption  
§§ 4:48-4:53. Access to adoption records
- DONALD T. KRAMER, LEGAL RIGHTS OF CHILDREN (2d ed. 1994).  
§ 6.12. Access to adoption records by adoptees and biological parents.

**LAW REVIEWS:**

- Gloria L. Kelly, *Getting to Know You: Disclosure of Information Contained in Sealed Adoption Records Under Connecticut Public Act 87-555*, 5 CONNECTICUT PROBATE LAW JOURNAL 81 (1989).
- Michael H. Hanley, *A Reasonable Approach To The Adoptee's Sealed Records Dilemma*, 2 OHIO NORTHERN L REV 542 (1975).
- LEGALTRAC® SUBJECT HEADING: *Adoption—records and correspondence*  
*Children, adopted—records and correspondence*

**COMPILER:**

Lawrence Cheeseman, Supervising Law Librarian, and Jeffrey Dowd, Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560.  
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# Adoption and Inheritance

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to right to inheritance of adopted persons including from and through adopting parent and person
- DEFINITIONS:** **Stranger to the adoption doctrine:** “doctrine under which a testator or settlor other than the adopting parent is presumed not to intend to share his bounty with adopted child.” *Schapira v. Connecticut Bank & Trust Co.*, 204 Conn. 450, 458, 528 A.2d 367 (1987). *Statutory extinguished by §45-65a in 1959 (applicable to wills and trusts instruments subsequent to October 1, 1959).*
- STATUTES:**
- CONN. GEN. STAT. (2003).  
§ 45a-731. Effects of final decree of adoption. Surviving rights  
§ 45a-734. Adoption of adults. Inheritance
- DIGESTS:**
- WEST KEY NUMBER: *Adoption* # 21-23
  - DOWLING’S DIGEST *Adoption*
  - CONNECTICUT FAMILY LAW CITATIONS *Adoption*
- COURT CASES**
- *Stamford Trust Co. v. Lockwood*, 98 Conn. 337, 119 A. 218 (1989).
  - *Rauhut v. Short*, 26 Conn. Supp. 55, 212 A.2d 827 (1965).
  - *Killen v. Klebanoff*, 17 Conn. Supp. 223 (1951).
- A.G. OPINIONS:**
- 24 OP. ATTY GEN. 380 (Sept. 18, 1946).
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).  
§§ 182-206. Inheritance; Other means of disposing of property
  - 2 C.J.S. *Adoption of Persons* (1972).  
§§ 145-154. Inheritance
  - Jay M. Zitter, Annotation, *Adopted Child As Within Class Named In Deed Or Inter Vivos Trust Instrument*, 37 ALR5<sup>th</sup> 237 (1996).
  - Jay M. Zitter, Annotation, *Adopted Child As Within Class Named In Testamentary Trust*, 36 ALR5<sup>th</sup> 395 (1996).
  - Christopher H. Hall, Annotation, *Adoption As Precluding Testamentary Gift Under Natural Relative’s Will*, 71 ALR4<sup>th</sup> 374 (1989).
- TEXTS & TREATISES:**
- RALPH H. FOLSOM & GAYLE B. WILHELM, INCAPACITY, POWERS OF ATTORNEY AND ADOPTION IN CONNECTICUT 3d (2002).  
Chapter 5. Adoption and Parental Rights  
§ 5:14. Legal consequences of adoptions
  - Dianne E. Yamin, Hon., *Adoption: Law and Practice, in* CONNECTICUT LAWYERS’ DESKBOOK: A REFERENCE MANUAL, XVIII-1 to XVIII-16 (Peter L. Costas, managing ed., 1998).  
Legal impact and consequences of adoption, XVIII-11 to -12

**LAW REVIEWS:**

- William H Wood, Jr. ET AL, *Treatment Of Adopted Individuals Under Laws Of Descent And Distribution In Connecticut*, 14 CONNECTICUT FAMILY LAW JOURNAL 1 (1995) or 9 CONNECTICUT PROBATE LAW JOURNAL 211 (1995).

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## Section 2.14

# Wrongful Adoption

*A Guide to Resources in the Law Library*

- SCOPE:** Bibliographic resources relating to the emerging tort of wrongful adoption
- DEFINITION:**
- **Wrongful adoption:** “. . . fraudulent concealment by intermediaries (adoption agencies . . .) of material facts about a child or her biological family—usually a hereditary physical or mental condition—which, if disclosed to the prospective adoptive parents, would have resulted in the adoption not taking place.” Juman v. Louise Wise Services, 608 N.Y.S.2d 612, 614-615 (1994).
- CASES:**
- Juman v. Louise Wise Services, 608 N.Y.S.2d 612 (1994), aff’d 620 N.Y.S.2d 371 (1995). *Includes history of wrongful adoption.*
  - Mallete v. Children’s Friend and Service, 661 A.2d 67 (R.I. 1995).
  - Roe v. Catholic Charities of the Diocese of Springfield, Illinois, 588 N.E.2d 354 (1992)
  - Meracle v. Children’s Service Society of Wisconsin, 437 N.W.2d 532(1989).
  - Michael J. v. County of Los Angeles, Department of Adoptions, 247 Cal. Rptr. 504(1988).
  - Burr v. Board of County Commissioners of Stark County, 491 N.E.2d 1101(1986).
- WEST KEY NUMBERS**
- *Adoption* # 20
  - *Fraud* # 10, 16, 20, 27, 28, 49, 58(1), 58(2)
- NEWSLETTERS:**
- FAMILY LAW REPORTER (BNA) INDEX: *Adoption—Wrongful Adoption*
- ENCYCLOPEDIAS:**
- 2 AM. JUR. 2D *Adoption* (1994).  
§ 163. On application of adoptive parent—Action for wrongful adoption
  - 2 C.J.S. *Adoption of Persons* § 10
  - Harriet Dinegar Milks, Annotation, “*Wrongful Adoption*” *Causes of Action Against Adoption Agencies Where Children Have or Develop Mental or Physical Problems That are Misrepresented or Not Disclosed to Adoptive Parents*, 74 ALR5<sup>th</sup> 1 (1999).
  - Damian Edward Okasinski, Annotation, *Attorney Malpractice In Connection With Services Related To Adoption Of Children*, 18 ALR5<sup>th</sup> 892 (1994).
  - Kathleen M. Door, Annotation, *Liability Of Public Or Private Agency Or Its Employees To Prospective Adoptive Parents In Contract Or Tort For Failure To Complete Arrangement For Adoption*, 8 ALR5<sup>th</sup> 860 (1992).
  - Jay M. Zitter, Annotation, *Action for wrongful adoption based on misrepresentation of child’s mental or physical condition or parentage*, 56 ALR4<sup>th</sup> 375 (1987).
- TREATISES:**
- 2 Joan H. Hollinger et al., *Adoption Law And Practice* (2001)

Chapter 16. Liability of adoption agencies and attorneys for misconduct in the disclosure of health-related information

- 1 THOMAS A. JACOBS, CHILDREN AND THE LAW: RIGHTS & OBLIGATIONS (1995).

Chapter 4. Adoption

§§ 4:57-4:65. Wrongful adoptions

**LAW REVIEWS**

- Note, *When Love is Not Enough: Toward a Unified Wrongful Adoption Tort*, 105 HARVARD LAW REVIEW 1761-1779 (May 1992).
- Mary E. Schwartz, *Fraud in the Nursery: Is the Wrongful Adoption Remedy Enough?* 26 VALPARAISO UNIVERSITY LAW REVIEW 807-842 (Summer 1992).
- Janet Hopkins Dickson, *Emerging Rights of Adoptive Parents: Substance or Specter?* 38 UCLA LAW REVIEW 917 (April 1991).
- Paul Marcotte, Wrongful adoption: couple sues agency for hiding adoptive son's background, 76 ABA JOURNAL 22(2) (April 1990).
- *Krueger v. Leahy* (Illinois)
- Susan Kempf LeMay, *The Emergence Of Wrongful Adoption As A Cause Of Action*, 27 JOURNAL OF FAMILY LAW 475 (Feb. 1989).
- LEGALTRAC® SUBJECT HEADING: *Open Adoption*

**COMPILER:**

- Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560. [Email](mailto:lawrence.cheeseman@jud.state.ct.us) lawrence.cheeseman@jud.state.ct.us

**Table 19: Adoption Laws on the Internet**

Adoption Laws on the Internet	
U.S. Adoption Law Materials	<a href="http://www.law.cornell.edu/topics/Table_Adoption.htm">http://www.law.cornell.edu/topics/Table_Adoption.htm</a>
Foreign Law Materials	<a href="http://travel.state.gov/children's_issues.html#adoption">http://travel.state.gov/children's_issues.html#adoption</a>

# Appendices

## Appendix A

OLR RESEARCH REPORT

February 4, 1998

98-R-0031

TO:

FROM: Lawrence K. Furbish, Assistant Director

### **Visitation for Birth Parent or Blood Relative After Termination of Parental Rights and Adoption**

You asked what the current law is concerning the rights of a birth mother or other close blood relative such as a grandparent to obtain visitation in conjunction with or after a termination of parental rights proceeding prior to an adoption. If they do not have such rights now, you asked how the rights could be granted and what kind of restrictions could be added to assure that such visitation was not granted in inappropriate cases.

Birth mothers and other close blood relatives have no specific or explicit statutory or common law right to visitation in adoption situations now. But CGS § 46b-59 allows any third party to seek visitation in Superior Court and the court may grant it if it finds the visitation to be in the child's best interest.

In *Michaud v. Wawruck*, (209 Conn. 407 (1988)) the Supreme Court ruled that an agreement between a birth mother and the adoptive parents to allow the mother visitation is not against public policy and can be enforced provided the court finds the visitation to be in the child's best interest. The ruling in this case is very narrow in its application, and it is not clear how the Court would rule on a visitation request when there was no prior agreement between the parties.

According to Linda Dow, chief counsel to the Probate Court Administrator, in practice birth mothers, grandparents, and other blood relatives do not seek such visitation. She said her office monitors adoptions very closely and although she could not guarantee that no such case exists, she is not aware of any.

The probate court can grant visitation to anyone, including a parent, who is removed as guardian of any minor (CGS § 45a-612). The court must be guided by the child's best interest and must take the child's wishes into account, if the child is old enough and capable of forming an intelligent opinion.

The probate court has no similar statutory authority concerning terminations of parental rights or adoptions, and, as you know, because it is not an equity court like Superior Court, it would need statutory authority to be able to do so.

Should you wish to amend the law to allow birth parents and other birth relatives to seek such visitation in probate court it could be done in several ways. The termination of parental rights statute (CGS § 45a-717) could be amended to allow certain parties to seek visitation when an adoption will follow the termination. Alternatively, a new section could be written for the adoption situation similar to the existing statute covering parents removed as guardians. In either case, CGS § 45a-731, which is the statute laying out the legal effects of a final decree of adoption, may need to be amended to reflect the new possibility of visitation.

There are a few policy questions to be considered. To be consistent with other statutes and the often stated public policy of the state, the bill should make any decision on visitation meet the child's-best-interest test. You would also need to consider how large the pool of people who could seek visitation should be: birth mothers, fathers, grandparents, or other blood relatives and how far removed. Another issue would be time frame. Should parties be allowed to seek visitation only until the termination is finalized, until the adoption is finalized, or until a specified period after the adoption such as six months or a year. If no limit is included, parties might seek visitation several years after the adoption, a situation that might not be good for the adoptive parents or the child.

LKF: pa

# **Appendix B**

## **OLR Research Report**

August 20, 2001

2001-R-0604

### **Adoption Timeframes**

By: Susan Price-Livingston, Associate Attorney

You asked how Connecticut compares with other states in the length of time it takes to finalize adoptions.

None of the state and national adoption experts we contacted knew any source for this statistic. (We checked with the National Adoption Information Clearinghouse, the Department of Health and Human Services' Children's Bureau, the North American Council on Adoptable Children, the National Center for State Courts, and the Connecticut probate court's Linda Dow. ) Factors that affect the length of time it takes to finalize an adoption include (1) whether the parents voluntarily place the child for adoption or contest the state's efforts to do so, (2) individual adoption or state child protection agency pre-adoptive trial placement periods (often up to one year), and (3) court backlogs.

The federal Children's Bureau takes an annual "snapshot" of children in foster care throughout the nation. It reports that, on average, children adopted out of foster care in fiscal year 1999 had waited 16 months from the time their parents' rights were terminated until their adoptions became final (Adoption and Foster Care Analysis and Reporting System (AFCARS), Interim FY 1999 Estimates as of June 2001).

Linda Dow, chief counsel to Connecticut's probate court administrator, reports that she informally reviews how long it takes for Connecticut probate courts to hold adoption finalization hearings. Judges in the 10 courts with the largest number of cases (i. e. , cities) generally hold them within three to six weeks of a request; it takes two to three weeks in the smaller volume courts. She indicated that one source of delay is the length of time it takes the Department of Children and Families (DCF) to submit required home studies and investigations on people seeking to adopt children in foster care. Although by law these reports must be submitted within 60 days of a judge's request, DCF often takes up to one year. Most private adoption agencies are able to meet the statutory deadline.

SP-L: ts

# Appendix C

## OLR Research Report

April 14, 1999

99-R-0531

### Adoption Review Board

By: Lawrence K. Furbish, Assistant Director

You asked for background on the Adoption Review Board and how often it meets.

The Adoption Review Board was created by the General Assembly in 1975. The attached OLR memo (92-R-0841) summarizes the statutes that created it. The only change to those statutes since 1992 has been to change the Department of Children and Youth Services to the Department of Children and Families.

Linda Dow, chief counsel to the Probate Court Administrator, confirmed that the description of how the board works, which appears on page three of the 1992 report, is still accurate. In the Baby Z case (247 Conn. 474 (January 1999)) the review board held a full scale hearing, but usually, Dow says, the three members confer by conference call each having looked at the relevant case documents. The 1992 report contains statistics on the number of cases decided by the board from 1988 to 1992. Dow provided the following additional statistics.

**Table 1: Adoption Review Board Cases Decided**

<b>Year</b>	<b>Number of Cases</b>
1993	3
1994	6
1995	4
1996	2
1997	1
1998	2
1999	1 pending
<b>Total</b>	<b>19</b>

# **Appendix D**

## **OLR Research Report**

March 13, 1998

98-R-0285

### **Foster Parents' Liability for the Violent Acts of Foster Children**

You asked how Connecticut and other states treat foster parents' liability for the violent acts of foster children in their care.

The Office of Legislative Research is not authorized to render legal opinions, and this memorandum should not be construed as one.

#### **SUMMARY**

Foster parents could be liable under common law in many states, including Connecticut, for the violent acts of foster children in their care under the same circumstances as parents would be. The facts of the claim would have to show that the child has a history of violent or malicious behavior toward others, the foster parent knew of this behavior, and, having the opportunity to control the child, did not. But we found no cases directly addressing foster parents' liability at common law.

Foster parents could also be liable in states that have enacted statutes holding parents and others civilly liable for damages their children cause to property or persons. Foster parents' responsibility is somewhat clouded since the state, not they, are the child's legal guardian. But the foster parents have day-to-day supervision and control of the child, which may be cited in claims against them for a child's action. The Connecticut Superior Court recently rejected the argument that since the state was a foster child's legal guardian, foster parents should be excluded from the law that makes parents and guardians liable for a minor's torts. In rejecting the state's motion for summary judgement, the court suggested that foster parents have responsibility for and control over the children in their care; the extent of that responsibility and control is a matter to be determined at trial. Several states (New York, Missouri, and Massachusetts), have excluded foster parents from their laws either by statute or through case law.

Several states have taken statutory approaches to protect foster parents who may be sued for the actions of children in their care. Alaska, Maryland, and Washington indemnify and defend them against claims arising from injuries a foster child may cause. Washington permits its attorney general to defend foster parents against suits arising from their good faith provision of services. Washington and Maryland provide liability insurance for foster parents that covers personal injury and property damage caused by foster children, as long as the foster parents did not act illegally or in bad faith. Wisconsin, California, and Minnesota permit the agencies administering fostering care to provide insurance. And Alaska may reimburse foster parents for damages and loss up to \$5,000 under prescribed circumstances.

#### **FOSTER PARENTS' LIABILITY UNDER COMMON LAW**

### ***Generally***

In common law, parents are not ordinarily liable for the torts of their children except in specific circumstances. One of these circumstances occurs when a parent knows of the child's vicious or destructive tendencies and fails to take reasonable measures to control him. All conditions must be present. Courts have denied claims of liability where the evidence did not show the child had vicious tendencies, or that if he had, the parent had no knowledge of it. And mere knowledge of the child's tendencies is not sufficient to impose liability on the parent; they must also fail to exercise reasonable measures to control and discipline the child (54 ALR3d 974, 977-78).

We searched computerized legal data bases on this topic but could find no cases in which courts held foster parents liable in common law for the torts of their foster children. A 1987 note in the *Notre Dame Law Review* states that "few jurisdictions have considered whether foster parents can be held liable for the torts of their foster children." The author suggests that such decisions may turn on whether a court finds that foster parents stand *in loco parentis* to their foster children. Minnesota and Wisconsin courts, in cases involving claims that foster parents committed torts against their foster children, have determined that foster parents enjoyed this relationship and were immune from liability. (But both states, the note continues, have since overturned their parental immunity law.) Courts in Michigan and New York came to the opposite conclusion in similar cases involving foster children's negligence suits against their foster parents.

Connecticut courts have not specifically ruled on whether foster parents stand *in loco parentis*. In a 1960 case involving a step-parent, the Superior Court wrote that "Whether a step-parent stand *in loco parentis* is primarily a question of intent to be determined in light of the circumstances peculiar to each case" (*Bricault v. Devereaux*, 21 Conn. Sup. 486).

### ***Connecticut***

Under Connecticut tort law, a parent is ordinarily not liable for the torts of his child. But he can be found liable if he "condones or authorizes repeated acts of vandalism or impropriety by the child." In such cases, the courts generally impose a duty on parents to control their child to prevent intentional harm or conduct which imposes unreasonable risk, if the parent knows or should know that (1) he is able to control his child and (2) there is the necessity and opportunity to exercise control (Wright, et. al., *Connecticut Law of Torts*, § 77).

We found no Connecticut case law applying this duty and liability on foster parents. The Supreme Court, in a case involving the wrongful death of a foster child, held that foster parents were state employees for purposes of indemnification. But it stated in dicta that it expressed no view on the state's potential liability for foster parents' conduct leading to injuries to third parties (*Hunte v. Blumenthal*, 238 Conn. 146, note 17 at 167). This appears to leave open the possibility that the court could hold foster parents liable for their foster children's acts (see "Statutory Liability," below).

## **STATUTORY LIABILITY**

### ***Other States***

Many states have partially limited the application of common law parental liability for their children's torts by establishing a statutory liability. Of the 25 states we examined with such laws only Missouri and New York specifically exempt foster parents from liability (*Mo. Rev. Stat. Ann.* §537.045; *N.Y. Gen. Obligation Laws* § 3-112). In Massachusetts, the court has exempted them (*Kerins v. Lima*, 680 NE 2d, 32 (1997)). South Dakota's attorney general issued an opinion that foster parents are exempt from liability under that state's statute because the law applies only to minors residing with their parents. California and Maryland's attorneys general have also opined that their parental liability laws do not apply to foster parents. In the remainder of the states we examined the issue has not been addressed.

## **Connecticut**

This state imposes liability up to \$5,000 on “the parent or parents or guardian, other than a temporary guardian appointed pursuant to section 45a-622,” for the willful or malicious acts of unemancipated minors (CGS § 52-572). In a 1997 decision rejecting a motion for summary judgement in a case involving a foster child who assaulted another child, the Superior Court held that foster parents are “guardians” within the meaning of this law, even though the commissioner of children and families is statutorily designated as sole guardian of children committed to her care and custody. The state, representing the foster parents as a result of *Hunte v. Blumenthal* (see above), cited that decision in asserting that the state was the sole guardian. The trial court, citing the Supreme Court’s dicta in that case, argued that the *Hunte* decision was narrowly drawn and that the Court had expressed no view on the meaning of guardian as it applied to other law. In rejecting the motion, it focused on the responsibility of foster parents to control the behavior of children in their care. It held that whether foster parents are liable under § 52-572 is a question of fact concerning (1) their obligation under law to control their foster children, (2) the amount of authority they are given to control, and (3) whether that authority is sufficient to impose liability on them (*Abrams v. Maloney*, 19 Conn. L. Rptr. No. 12, 410 (April, 1997)). The case is still awaiting trial.

## APPROACHES TO PROTECTING FOSTER PARENTS FROM LIABILITY

States seeking actively to protect foster parents from liability for their foster children's torts have taken two approaches: (1) defending them against and indemnifying them for claims and (2) reimbursing them for, or providing them with insurance to pay, claims.

### ***Indemnification and Defense***

Alaska, Georgia, and Washington statutes require the state to indemnify and defend foster parents. Georgia specifically includes foster parents in its definition of "public employee" (Ga. Code Ann. § 50-12-22). Washington includes foster parents in its public employee indemnification law as long as the "occurrence arose from the good faith provision of foster care service" (RCW, §§ 4.92.060-070). Alaska law makes it state policy to indemnify and defend a foster parent for injuries "occurring during the performance and within the scope of duty of the foster care program" (7 AAC § 053.100). Oregon has extended defense and indemnification to foster parents through court action, which deemed them to be state employees for any acts concerning the care and supervision of their foster children (*Pickett v. Washington County*, 31 Or. App. 1263). The Oregon court's holding is thus broader than Connecticut's in *Hunte*.

### ***Insurance***

Maryland and Washington require the state to provide liability insurance for foster parents. Maryland also requires the state to reimburse foster parents up to \$5,000 for costs of bodily injury or property damage the foster child causes that the insurance policy does not cover. Before making the reimbursement, the secretary of juvenile services must make sure that the foster parent's actions did not contribute substantially to the injury or damage (Md. Code Ann. §2-121). Washington requires the secretary of health and social services to provide insurance for foster parents either by purchasing a policy or self-insuring. He may spend up to \$500,000 each biennium for coverage. The insurance is to cover acts of ordinary negligence but not illegal or bad faith acts. The state pays claims that exceed other liability insurance available to the plaintiff (e.g., a homeowner's policy) (RCW 74.14b.080).

New Hampshire authorizes its Division of Human Services director to purchase insurance. The state's plan pays up to \$500 for property claims and \$1,000 for personal injury claims (N.H. RSA, § 161:4). Wisconsin law permits the insurance commissioner to promulgate plans to provide liability insurance for foster parents if he determines that it is not readily available in the voluntary market and is in the public interest. The plans must establish procedures for making such coverage available from the private market, and all property-casualty insurers operating in the state must participate (Wis. Stat. Ann., § 619.01).

California and Ohio operate county-based foster care systems. Their laws permit the county to provide or purchase insurance for foster parents (Cal. Govt. Code § 23004.4; Ohio Rev. Code Ann., § 5153.131).

Alaska permits its Social Services Division to reimburse foster parents up to \$5,000 for damages and loss under the following conditions:

1. the damage resulted from a foster child's deliberate and malicious or grossly negligent act,
2. the foster parents exercised adequate supervision and took appropriate precautions considering the child's maturity and behavioral history, and
3. the damage or loss is not covered by the foster parents' insurance.

Table 1 illustrates foster parents' liability and state responses in selected eastern states.

**Table 1: Foster Parents' Liability**

<i>State</i>	<i>Are Foster Parents (FPs) liable if their foster child (FC) damages or injures someone else's property?</i>	<i>Statutes and Case Law</i>	<i>Does the state provide liability insurance?</i>	<i>Will the state defend or indemnify foster parents?</i>
<b>CT</b>	Not settled. <i>Hunte v. Blumenthal</i> makes FPs state employees for purposes of their acts towards FC. <i>Abrams v. Maloney</i> says they are guardians for purposes of liability for FC acts.	(CGS § 52-572) <i>Hunte v. Blumenthal</i> (238 Conn. 146 (1996)). <i>Abrams v. Maloney</i> (19 Conn. L. Reporter, # 12, 410(1997)).	No. Some homeowner's policies may have endorsements that provide coverage for foster parents.	Case by case. Based on <i>Hunte v. Blumenthal</i> , the state defended in <i>Abrams v. Maloney</i> .
<b>DE</b>	Generally, yes. FPs are considered individual agents and not state employees.	None	Yes and no. A few years ago, foster care payments were increased to cushion the cost of liability insurance. A small pool covers unintentional damage by the FC to the FP's property. It is given out on a case by case basis. FPs must have their own liability policy.	No
<b>MD</b>	No. FPs are considered employees of the state.	MD Annotated Code: § 2-131	Yes	Yes

**Table 1 (Continued)**

<i>State</i>	<i>Are Foster Parents (FPs) liable if their foster child (FC) damages or injures someone else's property?</i>	<i>Statutes and Case Law</i>	<i>Does the state provide liability insurance?</i>	<i>Will the state defend or indemnify foster parents?</i>
<b>MA</b>	No. FPs are considered employees of the state.	MA General Law Ch 231 Section 85G. Case law holds that FPs are not parents within the meaning of the statute. <i>Kerins v. Lima</i> (1997), 680 Northeast 2nd 32.	No. A \$50,000 pool set up by the Dept. of Social Services helps cover costs if an FC damages an FP's property.	Yes
<b>NH</b>	Yes	NH RSA § 161:4	Yes, to a limited degree. The state will pay up to \$500 for property claims against the FP that were caused by the FC; the state will pay up to \$1,000 for personal injury claims.	The state will hire a lawyer for the FP, but will not settle or pay judgments. If the FPs lose, they must pay out of pocket.

<b>ME</b>	Case by case, but generally no. FPs are not considered state employees.	Me RSA t. 5, § 1737(2) authorizes Department of Human Services (DHS) risk management program to provide liability insurance. DHS policy: "Insurance Program for Foster Parents & Respite Providers."	Yes. DHS risk management program provides liability protection to FPs if the FC causes damage to another's property.	Yes
<b>NJ</b>	They may be. FPs are not considered state employees.	None	FPs are expected to carry homeowner's insurance; but the state may cover the deductible. NJ's liability plan is currently being re-written.	Case by case.
<b>NY</b>	No, unless negligent.	N.Y. Gen. Oblig. Law § 3-112; N.Y.C.C.R. tit. 18 § 427.3	No, but foster care rate methodology includes a provision for state to cover FPs. Most FPs are county, not state, supervised.	Up to \$1000, on case by case basis.
<b>RI</b>	Case by case, but generally no.	None	Yes, with certain exclusions and limits. Maximum \$300,000 liability protection covers bodily injury and property damage, provided it is not intentional, vicious, or criminal.	Case by case. For instance, insurance will not cover an FC crashing an FP's car.

**Table 1 (Continued)**

<i>State</i>	<i>Are Foster Parents (FPs) liable if their foster child (FC) damages or injures someone else's property?</i>	<i>Statutes and Case Law</i>	<i>Does the state provide liability insurance?</i>	<i>Will the state defend or indemnify foster parents?</i>
<b>VA</b>	Yes	VA Policy: "Foster Parent Contingency Fund."	Yes and no. State may provide insurance under some circumstances (i.e. rape, salary loss). A fund pays when FC damages FP's property or harms biological child. About 10 yrs ago, VA bought its own ins. co. This didn't work out, as the company didn't pay claims adequately.	Case by case.

SS:CT/pa

# Appendix E

## OLR Research Report

December 5, 1994

94-R-0703

### Background on Adoption

TO:

FROM: Lawrence K. Furbish, Assistant Director

RE: Background on Adoption

You asked a series of questions about adoption in Connecticut. The specific information you wanted was: (1) the number of adoptions that take place each year in Connecticut including, if possible, the number of instances where an adoption is pursued for a while and then dropped by either the adopting or birth parents, (2) the number of children available for adoption, (3) the procedure in Connecticut for adopting, (4) the qualifications for a parent to adopt, (5) the state's policy on transracial adoptions, and (6) major legislative changes adopted during the past five years.

#### SUMMARY

In 1993 there were over 1,000 adoptions finalized in Connecticut probate courts, but 379 of these were stepparent adoptions and 101 were relative adoptions, which means that there were 529 adoptions as that term is more commonly thought of. In 1992 there were 595 such adoptions and in 1991, 598. As of October 27, 1994, there were 144 children readily available for adoption through the Adoption Resource Exchange which is part of the Department of Children and Families (DCF), and there were an additional 551 children whose parental rights had been terminated and who were registered with the exchange although many of these children are not actually available for adoption.

We were unable to find precise figures about the number of adoptions that are initiated and then abandoned. If a birth mother reaches a tentative identified adoption agreement and then changes her mind before her parental rights are terminated, or even before the birth of the child, there is usually no attempt to systematically record such information. If a preadoption placement occurs and the adopting parent later concludes that it is not going to work and ends the placement before the adoption is finalized, DCF will know about it if it is one of their children but probably will not if it is a private agency child. In any event, DCF has just recently begun systematically recording such data and is unable to provide us with anything they think is reasonable and reliable.

The first step in the adoption process is termination of parental rights. This ends the relationship between the child and his natural parent, thereby freeing the child for adoption. Petitions to terminate parental rights must be filed in probate court. Either probate court or Superior Court must hold a hearing. If the termination is approved, the court usually appoints a statutory parent to protect the child until he is adopted.

Adoption applications must also be filed in probate court, which has jurisdiction over adoption matters. Generally, children must be placed in an adoptive home by DCF or by an adoption agency licensed by them. The court must order the agency placing a child to investigate the application and hold a hearing after a report of the investigation has been filed. After the hearing, the court can approve, deny, or seek more information on

the application. A family wishing to adopt must obtain a license and there are a number of regulatory requirements that must be met.

The only state statute relating to race and adoption prohibits the commissioner of DCF from refusing to place any child under his authority for adoption with particular adoptive parents solely on the basis of a difference in race. Recently adopted federal legislation prohibits discrimination in the placement of children on the basis of race, color, or national origin.

There have been a number of significant changes to Connecticut's adoption laws in the past 5 years with the largest number of changes coming in 1993 primarily in reaction to the Baby B case which received so much publicity in the press. These acts made it easier to terminate parental rights in some cases and prohibited reconsideration of a termination once an adoption has been finalized

## **ADOPTION STATISTICS**

The figures in Table 1 were provided by Attorney Thomas Gaffey, assistant to the Probate Court Administrator, and they are taken from the annual reports of the Probate Court Administrator's Office.

**Table 1**

### **Adoptions and Terminations of Parental Rights**

	<i>1989</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>	<i>1993</i>
Terminations	671	680	588	514	481
Stepparent Adoptions	640	537	554	434	379

**Table 1 (continued)**

	<i>1989</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>	<i>1993</i>
Relative Adoptions	94	59	108	95	101
Stat. Par./Non-Ident. Adoptions	411	453	442	424	369
Stat. Par./Identified Adoptions	109	137	156	171	160

The first three sets of figures in the table (terminations and stepparent and relative adoptions) are self explanatory. The last two are adoptions where, pursuant to adoption law, a statutory parent has been appointed for the child and a full scale adoption has taken place. The table distinguishes between traditional adoptions where DCF or a private, licensed child placing agency has placed the child and "identified" adoptions where the prospective adoptive parents have located the child and the adoption takes place with the involvement of a licensed child placing agency.

The Connecticut Adoption Resource Exchange, which is part of DCF, also keeps statistics, but they are kept on a fiscal year basis and are thus hard to compare with the Probate Court's which are for the calendar year. The figures in Table 2 are from information provided by Jean Watson of the Adoption Resource Exchange.

**Table 2**

### Connecticut Adoption Statistics

	<i>1990-91 1992-93</i>	<i>1991-92</i>	
DCF Adoptions (total)	275	335	263
" " (subsidized)	244	315	253
" " (non-sub.)	31	20	10
Ct. Private Ag. (total)	51	143	154
" " " (subsid.)	2	2	1
" " " (non-sub.)	49	141	153
Out-of-State Agen. (total)	6	9	14

**Table 2 (continued)**

	<i>1990-91 1992-93</i>	<i>1991-92</i>
Stepparent Adopt. (total)	175 194	181
With DCF Investigation 87	111	160
Priv. Agen. Invest. 13	6	9
No investigations 94	68	112
Relative Adopt. (total) 32	9	40
With DCF Investigation 27	6	35
Priv. Agen. Invest. 5	3	3
Out-of-State Agency 0	0	2

According to Watson, these figures should reflect most of the adoptions that are taking place in Connecticut, but she did caution that for agencies other than DCF they are depending on the child placing agency filling out a form and returning it to DCF. The categories in the table are for the most part self explanatory. Subsidized adoptions refer to those involving special needs children where the state basically helps to defray the cost to the adopting parent for the special medical needs of the

child. Also, under stepparent adoptions the law does not require an investigation, as it does for all other types of adoptions, hence the category "no investigation." Fully comparable figures for 1993-94 are not yet available, but we will provide them if you wish as soon as we can.

## **ADOPTION PROCEDURE**

Before a child can be adopted a "termination of parental rights" must occur. This is the complete severance by court order of the legal relationship between a child and his parent. A termination frees a child for adoption but does not affect his right to inherit or his religious affiliation.

The statutes require that the laws concerning the termination of parental rights and adoption be liberally construed in the best interests of the child (CGS § 45a-706).

The law allows the following people to ask probate court to terminate the parental rights of either or both parents: (1) the parents, (2) the child's guardian, (3) the selectman of a town caring for a foundling, (4) an officer of an orphanage or adoption agency, (5) a close blood relative of a child, and (6) the commissioner of children and families if the child's custodian agrees and the child has not been committed to the commissioner. The child must agree if he is age 12 or older (CGS Secs. 45a-707 & 45a-715(a)). A comparable statute exists for terminating the parental rights of children committed to DCF (CGS § 17a-112).

### ***Petition to Terminate Parental Rights***

The petition requesting termination of parental rights must identify the child, the petitioner, the child's parents, and the placing agency. It must also state the facts related to the request for termination (CGS Sec-45a-715(b)).

If the petition states that either or both parents agree, then either or both must acknowledge their consent on a form showing to the court's satisfaction that the consent has been voluntarily and knowingly given (CGS § 45a-715(d)).

Minor parents may terminate their rights, but a guardian *ad litem* (see below) must be appointed to assure that consent is informed and voluntary. The guardian *ad litem* must approve a minor's application to terminate parental rights in writing before a court may act (CGS § 45a-715(d) & 45a-715(f)).

A mother's consent to terminate parental rights may not be signed within 48 hours of the child's birth (CGS § 45a-715 (b)).

The law provides for filing the petition in probate court and for transferring the case to Superior Court. The Superior Court must follow the same procedures as probate court (CGS § 45a-715 (g)).

### ***Notice of Hearing***

A hearing must be held within 30 days of the petition's filing. The court must notify the following of the hearing: the parents, the commissioner of children and families, the guardian if any, and any other person it deems appropriate. The court must notify the father of a child born out of wedlock if (1) a court has ruled that he is the father, (2) he has acknowledged in writing that he is the father, (3) he has regularly paid child support, (4) his name is on the child's birth certificate, or (5) he has filed a claim for paternity. PA 93-170 requires that diligent searches be made for missing parents, including putative fathers, in termination cases and that the courts be informed of the steps taken to carry out the searches.

The law specifies how and when the notice must be served. The court must inform the parties of their right to an attorney and that the state will pay for one if they cannot (CGS § 45a-716).

### ***Guardian Ad Litem***

When the parent is either a minor or incompetent, the law requires the court to appoint a guardian *ad litem*, who serves as guardian for purposes of the proceedings. The guardian must be an attorney or an officer of an adoption agency that did not request the termination (CGS § 45a-708).

### ***Court Hearing***

All notified people have the right to appear at the hearing. If the parent giving up the child appears, the court must explain the consequences of the action. The parent is not required to appear, but may be ordered by the court to do so. If someone appears without an attorney, the court must inform him of his right to one and that, if necessary, the state will pay. The hearing must be delayed if a paternity claim is pending.

At any time during the hearing, the court may, upon a finding of reasonable cause, order an examination of the child by a physician, psychiatrist, or licensed clinical psychologist. If a parent's competency or ability to care for a child is at issue, the court may also order the parent examined. The court may, but is not required to, consider the results of the examinations when making its ruling.

The law allows the court in an uncontested hearing, and requires it in a contested hearing, to ask the commissioner of children and youth services or an adoption agency to investigate and report on the child's physical, mental, and emotional status. The report must contain facts relevant to the case including at least the parents' physical, mental, social, and financial condition. The report is due 90 days after the request is made. The hearing must be resumed within 30 days after the report is received or the expiration of the 90-day period, whichever is sooner. The report is admissible in court as evidence, and the person making it may be called upon as a witness (CGS § 45a-717).

### ***Grounds for Termination With Parental Consent***

The court may approve a voluntary termination of parental rights if it finds, by clear and convincing evidence, that termination is in the child's best interests. The guardian or statutory parent (see below) must report within 90 days of the termination on the child's case plan, as defined in the Federal Child Welfare Act of 1980. The plan must be updated every six months, and the court must review it annually until the child's adoption is finalized (CGS § 45a-717(k)).

### ***Grounds for Termination Without Parental Consent***

In order to grant a petition involuntarily terminating parental rights the court must find on clear and convincing evidence that the termination is in the best interests of the child and that over an extended period of time (defined as one year with the exception noted below) at least one of the following specific grounds has existed:

- 1 the parent has abandoned the child in the sense that the parent has failed to maintain a reasonable degree of interest, concern, or responsibility for the child's welfare;
2. the child has been denied, by parental acts or omissions, the care, guidance, and control necessary for his physical, educational, moral, or emotional well being. Nonaccidental or inadequately explained serious physical injury are prima facie evidence sufficient for termination; or
3. there is no ongoing parent-child relationship defined as that which ordinarily develops as a result of the parent meeting on a continuing, day-to-day basis the physical, emotional, moral, and educational needs of the child and to allow more time for such a relationship to develop would be detrimental to the child's best interest (CGS § 45a-717(f)).

For terminations that take place in Superior Court, as opposed to probate court, there is an additional nonvoluntary ground of the child having been found by the Superior Court to have been neglected or uncared for by the parents in a prior proceeding and the parents have failed to achieve a degree of personal rehabilitation that would allow the conclusion that within a reasonable time, considering the child's age and needs, they could assume a responsible position in the child's life (CGS § 17a-112(b)). Both the Superior and probate court statutes allow the court to waive the one year requirement if it finds from the totality of the circumstances surrounding the child that it is necessary to promote the child's best interest (CGS § 45a-717(g) and § 17a-112(c)). PA 93-193 makes abandonment of a child under 6 months old when the parents whereabouts are unknown and they have not attempted to see the child for 60 days a prima facie case that termination should occur earlier than the 1 year limit.

The law requires the court to make specific written findings concerning (1) the timeliness, nature, and extent of services offered or provided by the agency to facilitate a reunion between parent and child; (2) the terms and extent of compliance with any applicable court order; (3) the child's feelings and emotional ties to his parent or anyone who has had physical care and custody of the child for at least one year; (4) the child's age; (5) the parent's efforts to adjust his lifestyle in the best interests of the child, including the extent to which the parent has stayed in touch with the child as part of an effort to reunite and the maintenance of communication with the child's custodian; and (6) the extent to which a parent has been prevented from maintaining a meaningful relationship (CGS § 45a-717(h)). PA 93-170 prohibits courts from reconsidering any termination of parental rights decision once a subsequent adoption has been finalized.

### **ADOPTION PROCESS**

#### ***Who May Give a Child in Adoption***

The statutes allow a natural parent, a guardian, or a statutory parent to give a child in adoption under specified conditions. Subject to probate court approval, a parent may agree with a spouse that the spouse will adopt or join in the adoption of the child if: (1) the child's other parent has died; (2) the child was born out of wedlock and, if there is a putative father, he has been notified and his parental rights terminated; (3) the child's parent is a former single parent who adopted the child; or (4) the child's parent is the child's sole legal guardian.

A child's guardian may, with the probate court's approval, give a child who is free for adoption to a blood relative who is descended from a common ancestor who is not more than three generations removed from the child.

A statutory parent may, with the probate court's approval, give a child in adoption. The child must agree if he is 12 years old or older (CGS § 45a-724).

### ***Statutory Parent***

A "statutory parent" is appointed by the probate court. It may be either the Department of Children and Families or an adoption agency. A court appoints a parent to protect the child's interests until he is adopted or turns 18. There are provisions for removing a statutory parent for good cause (CGS Secs. 45a-718).

### ***When a Child is Free for Adoption***

A child is free for adoption when any of the following conditions exist:

1. the child has no living parents;
2. the parents were removed as guardians before October 1, 1973 in accordance with the law effective at that time;
3. all parental rights have been terminated in accordance with Connecticut law; or
4. the child is not from Connecticut, has been placed for adoption, and the petitioner has filed an affidavit stating that the child has no living parents or is free for adoption because parental rights have been terminated in accordance with the laws of the child's state, territory, commonwealth, or country of origin. If the child is from another state, the adoption agency must have guardianship or other court authority (CGS § 45a-725).

### ***Adoption Application***

Adoption applications and agreements must be filed in probate court. A copy must be sent to the commissioner of children and families (CGS § 45a-727(a)(1)). Both husband and wife must join in the adoption, unless the probate court finds that sufficient reason exists why one spouse should not join in the agreement (CGS § 45a-732).

When the child is not related to the adopting parents, the law requires him to be placed for adoption by the commissioner of children and youth services or an adoption agency, unless the requirement is waived by the Adoption Review Board (see below), and for these agencies to approve the proposed adoption. DCF or an adoption agency can place a child for adoption who has been located by a prospective adoptive parent (CGS § 45a-727(a)(3)).

Applicants must declare that to the best of their knowledge, there is no other proceeding pending affecting custody of the child or, if so, that the adoption would not interfere with the other proceeding (CGS § 45a-727(a)(2)).

A violator of the adoption placement law is subject to one to five years imprisonment, a fine of up to \$5,000, or both (CGS § 45a-729).

### ***Investigation***

The court must ask the DCF commissioner or an adoption agency to investigate and report on the child's physical and mental condition and on other facts relevant to the proposed adoption, including the physical, mental, social, and financial condition of the adopting and natural parents. The report may make conclusions on whether the adoption will be for the child's welfare. It must be made within 90 days and is admissible as evidence. The court may charge the adopting parents for the cost of the investigation and report (CGS § 45a-727(b)).

Parents wishing to adopt must obtain a license from DCF, and in order to obtain one they must comply with a number of requirements set out in regulation (Regs. of Ct. St. Agen. §§ 17a-145-100 and 101, previously §§ 17-48-100 and 101). These regulations contain requirements relating to the physical configuration of the home, food, water, milk, clothing, and privacy. The parents must also meet requirements concerning their health, including their emotional health, their financial condition, and their character and habits.

When DCF or a child placing agency does a home study it must assess and evaluate, among other things, the family's motivation to adopt, their emotional readiness and ability to incorporate the child into their family unit, their capacity to meet the current and future needs of the child, their capacity to develop additional skills to parent the particular child, and their ability to deal with loss or crisis.

### ***Hearing***

The court must set a hearing date when it receives the report and notify the adopting parents, the commissioner, and the child if he is age 12 or older. At the hearing, the court can (1) approve the application, (2) deny it, or (3) order a further investigation. The court may not disapprove an adoption only because of the adopting parent's marital status, or because of a difference in race, color, or religion between the adopting parent and child, or because the adoption may be subsidized. The court must, as far as possible, include the child's date and place of birth in the final decree (CGS § 45a-727(c)).

The court may waive the required investigation and report if a stepparent is seeking to adopt the child (CGS § 45a-733).

### ***Transracial Adoption***

By law, when DCF is the statutory parent, it is prohibited from refusing to place a child with prospective adoptive parents solely on the basis of race (CGS § 54a-726). DCF operates under the philosophy that placement should be in the child's best interest and that usually the best interest of the child is to be placed with an adoptive family of the same racial and cultural background as the child. It is the presumptive policy that a child will be placed in a pre-adoptive home of the same racial, cultural, ethnic, and lingual background as the child (DCF Policy Manual § 48-14-7). This policy can be not followed when an appropriate family cannot be located within 12 months, but DCF staff have the responsibility to recruit and study appropriate families based on the children registered on the adoption resource exchange.

New federal legislation that was enacted and signed by the President this fall prohibits agencies that receive federal funds from 1) categorically denying anyone the opportunity to adopt solely on the basis of the race, color, or national origin of the adoptive parents and the child; or 2) delaying or denying placement solely on the basis of such a difference (H.R. 6, Part E, § 551). The law does allow agencies to consider the racial, ethnic, or cultural background of the child and the ability of the prospective adoptive parents to meet the needs of a child of this background.

### ***Final Adoption Degree***

A final adoption decree has the following effects:.

1. The adopted child and adopting parent have the same legal relationship as that existing between a natural child and parent.
2. The adopted child and adopting parent have the same rights of inheritance from and through each other as those existing between a natural child and parent.
3. An adopted child has the same legal relationship to his siblings in the adoptive family as they do to each other.
4. An adopted child is treated the same under legal documents as a natural child unless expressly stated otherwise.
5. The legal relationship between the adopted child and his natural parent is terminated, and the natural parents are relieved of all parental rights and responsibilities.
6. The natural parents and relatives cannot inherit through an adopted child, nor may the adopted child inherit through the natural parents and relatives.
7. The legal relationship between an adopted child and his natural parent, including the right to inherit, is severed. The exception to this rule allows a child to inherit from a deceased parent when the surviving parent has remarried and a stepparent has adopted him.

8. An adopted child who is the natural child of a veteran who served during a war retains his rights to certain veterans' and to Social Security benefits. (CGS § 45a-731)

## LEGISLATIVE CHANGES

### **PA 91-58**

sHB 7133

*Judiciary Committee*

#### **AN ACT CONCERNING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION**

**SUMMARY:** This act prohibits certain kinds of discrimination against people because of their sexual orientation, which is defined as heterosexual, homosexual, or bisexual preference.

The act allows the commissioner of the Department of Children and Youth Services or a child-placing agency to consider the sexual orientation of prospective adoptive parents when placing a child in adoption or foster care. It also makes it clear that these agencies do not have to place such children with homosexual parents.

EFFECTIVE DATE: October 1, 1991

### **PA 91-252**

sHB 5213

*Judiciary Committee*

*Public Health Committee*

#### **AN ACT CONCERNING ADOPTION AND AMENDMENT OF VITAL RECORDS**

**SUMMARY:** This act adds to requirements concerning identified adoptions and makes a change in the procedure for amending birth certificates. The act requires the Department of Children and Youth Services (DCYS) to add to their existing regulations to require that an identified adoption birth mother receive counseling within 72 hours after the birth of her child or as soon as is medically possible. Counseling for the birth mother was already required under the regulations, but there were no guidelines on when it had to take place.

It allows the adoptive parents in an identified adoption to participate in the labor and birth and visit the newborn child if the birth mother, the adoption agency, and the physician all agree and the participation and visitation are consistent with the hospital's medically necessary procedures.

The act requires any hospital discharging an identified-adoption newborn to adoptive parents or an adoption agency to provide, if the parents or agency requests it, a safe, secure, and private room for the physical custody transfer to take place. At the time of discharge, the hospital must give the adoptive parents or agency any information about the care and health of the infant that they would normally provide to birth parents.

It also requires any hospital that has infant care and child development instructional programs for birth parents to allow adoptive parents to participate if they pay for it.

Finally, the act requires that the original copy of any amended birth, death, or marriage certificate be sealed, kept in a confidential file at the Department of Health Services (DHS), and opened only on the order of the DHS commissioner. A copy of the original must be made and amended so that the language on the original certificate that is being changed is no longer visible. This new copy becomes a public record.

EFFECTIVE DATE: October 1, 1991

**PA 92-179**

HB 5518

*Judiciary Committee*

*Public Health Committee*

**AN ACT CONCERNING ADOPTION**

**SUMMARY:** This act makes several changes in a 1991 law concerning identified adoptions. It:

1. requires hospitals to provide adoption agencies with medical information concerning the birth mother and the child within a reasonable time;
2. explicitly allows, with the approval of the adoption agency, prospective adoptive parents to be present at the time the newborn infant is discharged from the hospital;
3. requires hospitals to provide a safe, secure, private room for the physical transfer of custody of a child whether or not the agency or parents have asked for one;
4. adds feeding to the types of information that must be provided to the adoptive parents at discharge and specifies that only nonidentifying information need be provided; and
5. deletes language from a 1991 law that might have allowed a newborn to be discharged directly to the prospective adoptive parents without going through the agency.

EFFECTIVE DATE: October 1, 1992

**PA 93-51**

HB 5647

*Judiciary Committee*

**AN ACT CONCERNING JUDGMENTS TERMINATING PARENTAL RIGHTS**

**SUMMARY:** The law requires the Superior Court to periodically review preadoption placement plans for children. This act specifies that this law does not give the Superior Court continuing jurisdiction that would allow it to reopen a termination of parental rights case after the four-month time limit for reopening such cases has expired. The act also specifies that when the state files an amended termination of parental rights petition, that does not constitute a waiver or submission to the court for purposes of reopening a termination judgment.

The law prohibits reopening a civil judgment more than four months after it is rendered unless the court has continuing jurisdiction or the parties waive the four-month limit or otherwise submit to the court's jurisdiction. Under common law a judgment can be reopened anytime if it is based on fraud.

EFFECTIVE DATE: October 1, 1993

## **BACKGROUND**

### ***Baby Girl B. Case***

In this termination of parental rights case, the trial court ruled that it could reopen a termination judgment after the four-month limit had expired because it had continuing jurisdiction under the requirement that the court must monitor preadoption placements (*In Re Baby Girl B.*, 224 Conn. 263 (1992)). The Supreme Court overturned the trial court on this issue, ruling that it did not have continuing jurisdiction. But it allowed the reopening to stand because the state had filed an amended termination of parental rights petition. The Court considered this a waiver of the state's objection to the reopening.

### **PA 93-81**

HB 5882

*Judiciary Committee*

*Human Services Committee*

## **AN ACT CONCERNING PERMISSIBLE PAYMENTS TO BIRTH MOTHER IN IDENTIFIED ADOPTION**

**SUMMARY:** This act allows prospective adoptive parents in identified adoptions to pay up to \$1,500 toward the living expenses of a birth mother, although the probate court can approve more in unusual circumstances. Previous regulations limited such payments to approximately \$1,000. The act also specifically allows payment of reasonable telephone and maternity clothing expenses in addition to the living expense payment.

Finally, the act makes transportation costs to and from counseling part of the permissible payment for counseling expenses.

EFFECTIVE DATE: October 1, 1993

## **BACKGROUND**

### ***Payment of Expenses***

Regulations, which are required by statute, govern identified adoptions and limit the payments that prospective adoptive parents may make to a birth parent. Payments cannot be made directly but must go through the adoption agency.

### **PA 93-101**

sHB 5881

*Judiciary Committee*

*Human Services Committee*

## **AN ACT CONCERNING ADVERTISING FOR ADOPTION**

**SUMMARY:** This act allows a birth parent or prospective adoptive parent to advertise in Connecticut to help arrange an identified adoption. Regulations had allowed only the Department of Children and Youth Services and licensed child placing (adoption) agencies to advertise.

EFFECTIVE DATE: October 1, 1993

### **PA 93-170**

sHB 5641

*Judiciary Committee*

*Human Services Committee*

## **AN ACT CONCERNING FINALITY OF ORDERS TERMINATING PARENTAL RIGHTS**

**SUMMARY:** This act prohibits courts from reconsidering any termination of parental rights decision once a subsequent adoption has been finalized. It also requires the court to consider the child's best interest in deciding whether or not to reconsider a termination in any case where adoption has not been finalized. The child's caretaker must be allowed to give evidence on the child's best interest. The act specifies what must be taken into account in deciding best interest and prohibits considering socio-economic status.

The act requires that diligent searches be made for missing parents, including putative fathers, in termination cases, and that the courts be informed of the steps taken to carry out searches.

Finally, the act requires that the name of any putative father named by the mother be included in the termination petition and that he be given notice of the termination hearing.

EFFECTIVE DATE: October 1, 1993

## **FURTHER EXPLANATION**

### ***Reopening and New Trials***

By law, the Superior Court can reopen and reconsider or set aside any judgment based on certain statutory criteria or common law grounds, and it can grant the right to a new trial. The statutes limit a reopening to the four months after the decision unless there is fraud, in which case it can be reopened anytime. By law, petitions for a new trial must be brought within three years of the judgment. The act prohibits the court from reopening or setting aside a judgment or granting a new trial in any termination of parental rights case if a subsequent adoption has been finalized. In cases where an adoption has not been finalized, the court must take the child's best interests into consideration when deciding whether to reopen, set aside, or grant a new trial.

The act requires the court to consider the following in determining a child's best interest:

1. the child's age,
2. the nature of his relationship with and how long he has been with his caretaker,
3. the nature of his relationship with and how long he has been with his birth parent,
4. the nature of his relationship with any siblings or other children in the caretaker's household, and
5. the child's psychological and medical needs.

The court can look at other factors, but it cannot consider the relative socio-economic status of the birth parent and the caretaker.

The court must allow anyone having legal custody, or physical custody pursuant to an agreement with the Department of Children and Youth Services or a licensed child-placing agency, to give evidence concerning the child's best interest at a hearing on reopening or setting aside the judgment.

#### ***Putative Fathers***

The act requires any petition for a parental rights termination to contain the name of any putative father named by the mother. The courts, both Superior and probate, must give notice of the termination of parental rights hearing to any putative father named by the mother in the petition.

### ***Diligent Search***

If the whereabouts of either parent named in a termination of parental rights petition, including a putative father, is unknown, the petitioner must search diligently for him. The petitioner must also file with the court an affidavit indicating the efforts used to locate the parent or putative father.

### **BACKGROUND**

#### ***Reopening and New Trial***

Reopening by statute is generally limited to four months, but the parties can consent to an extension of that time and, if the court has continuing jurisdiction, it can still reopen after expiration of the four months. Under common law, a judgment obtained by fraud can be reopened anytime. The statutes allow the Superior Court to grant a new trial:

1. for mispleading,
2. after discovery of new evidence,
3. when there is lack of notice to a defendant or lack of a reasonable opportunity for the defendant to appear and defend,
4. when lack of notice to a plaintiff leads to nonsuit for failure to appear or a dismissal for failure to prosecute with reasonable diligence, or
5. for any other reasonable cause.

### **PA 93-193**

sHB 6800

*Judiciary Committee*

*Human Services Committee*

### **AN ACT CLARIFYING THE GROUNDS FOR TERMINATION OF PARENTAL RIGHTS**

**SUMMARY:** This act makes abandonment of a child under six months old, when neither parent's whereabouts is known and they have made no attempt to see the child or his caretaker for at least 60 days, a prima facie case that termination of parental rights should be granted sooner rather than after the one year generally required in the statutes. It requires the Department of Children and Youth Services (DCYS) to inform the court of its attempts to locate the parent.

The act also requires the court to make a finding concerning efforts to reunite the family, which is required under federal law, and allows neglect and termination petitions to be heard together in certain circumstances.

EFFECTIVE DATE: October 1, 1993

### **FURTHER EXPLANATION**

#### ***Abandonment***

Abandonment (defined as failure to maintain a reasonable degree of interest, concern, or responsibility for the child's welfare) is one of the grounds for termination of parental rights. The court can waive the general requirement that the ground must have existed for at least a year when it finds a waiver necessary to promote

the child's best interest. This act makes abandonment of a child less than six months old under the following conditions prima facie evidence that the waiver should be granted:

1. the parent did not have or initiate contact with the child or his guardian or caretaker for 60 or more consecutive days and
2. the parent's whereabouts is unknown, despite a diligent search by DCYS.

The act requires DCYS to file an affidavit disclosing its efforts to locate the parent.

The act makes this change in the law for terminations in both Superior Court and probate court.

### ***Federal Child Welfare Requirements***

In any contested termination of parental rights case the court must make certain written findings. This act requires the findings to include whether DCYS has made reasonable efforts to reunite the family pursuant to the Federal Child Welfare Act of 1980.

### ***Coterminous Petitions***

Two types of petitions are filed in child abuse and neglect proceedings. The first is a petition for temporary commitment of a neglected, uncared-for, or dependent child. This temporarily removes the child from his parents' custody and places him with the state or another agency or person while attempts are made to counsel and assist the parents so the family can be reunited. The second is a petition for termination of parental rights which completely severs the legal relationship between the child and his parents and leaves the child free for adoption. Sometimes these petitions are filed together (coterminous petitions), which is specifically allowed by the statutes, and both are heard at the same time as part of the same legal proceeding (for example, with the same witnesses). The act allows the petitioner (usually DCYS acting through the attorney general) to move for consolidation of the petitions when it has already filed the neglect petition and then decides that a termination should take place as well. This would allow both petitions to be heard together rather than requiring separate court proceedings for each.

### **PA 93-208**

sHB 5883

*Judiciary Committee*

*Human Services Committee*

## **AN ACT CONCERNING THE RIGHT OF CERTAIN PERSONS TO FILE REGISTRATION WITH ADOPTION REGISTRY AND RELEASE OF IDENTIFYING INFORMATION**

**SUMMARY:** The Department of Children and Youth Services (DCYS), and any licensed child-placing agency that participates in an adoption or termination of parental rights proceeding, must maintain a registry containing consents to the release of identifying information, refusals of consent, and revocations of consent that have been filed by specified people. Under prior law, a putative father (commonly defined as an "alleged or reported father of an illegitimate child") who was not a legal party to the termination of parental rights proceeding could not file a consent unless he presented DCYS or the agency with proof that the genetic mother consented to this filing or that she was dead.

This act allows anyone who was not a party to a termination proceeding and yet claims to be the father of the child to file a consent to the release of identifying information. It specifies that information which would identify the person claiming to be the father must not be disclosed without the written consent of the genetic parent or parents who were parties to the proceeding. If a parent's whereabouts is unknown, or if the parent is dead or incompetent, the law requires the probate or Superior Court to appoint a guardian ad litem to decide whether to consent to the release of the information.

EFFECTIVE DATE: October 1, 1993

**PA 93-335**

HB 6438

*Judiciary Committee*

*Human Services Committee*

**AN ACT CONCERNING INVESTIGATIONS OF PROPOSED ADOPTIONS**

**SUMMARY:** This act requires, rather than allows, the probate court to waive the agency investigation and report for an adoption involving a stepparent, unless it has good cause to want such an investigation.

The Department of Children and Youth Services or the child-placing agency must conduct investigations and write reports on the prospective adoptive parents in most adoptions. This act applies only when a stepparent is the adoptive parent.

EFFECTIVE DATE: October 1, 1993

**PA 93-346**

sHB 5885

*Judiciary Committee*

*Human Services Committee*

*Appropriations Committee*

**AN ACT CONCERNING ACCESS TO AND SHARING OF MEDICAL INFORMATION CONTAINED IN ADOPTION RECORDS**

**SUMMARY:** This act requires the Department of Children and Youth Services (DCYS) and any adoption agency that participated in an adoption or termination of parental rights to maintain registries for medical information. They must accept medical information concerning an adopted person that is provided by a genetic parent or blood relative of that person. Whenever they receive such information, DCYS or the agency, if they have an address or telephone number, must notify the adopted person, or his adoptive parents if he is a minor, of the information's availability. The act prohibits disclosing any information that would tend to identify the genetic parent or blood relative unless they have consented to that disclosure.

By law, these agencies must maintain a registry of voluntary consents to the release of information that would tend to identify the parties, and they must obtain medical information at the time of the adoption or termination. Prior to this act, there was no requirement that they accept or keep medical information submitted after the termination or adoption.

EFFECTIVE DATE: October 1, 1993

**PA 94-81**

HB 5603

*Judiciary Committee*

*Human Services Committee*

**AN ACT CONCERNING REVIEW OF CASE PLANS FOR CHILDREN**

**SUMMARY:** This act reconciles the differences between two different statutes which require that whenever the Superior Court or probate court has terminated parental rights but no adoption has occurred, the child's guardian or statutory parent must report to the court within 90 days with a case plan assuring that the child receives proper care and setting forth a way to bring about the child's final, permanent placement. (A statutory parent, which is the Department of Children and Families or an adoption agency, has legal responsibility and custody of a child until he is adopted.) By law, the plan must be updated and reviewed by the court periodically.

The act:

1. specifies that the 90 days within which a plan must be submitted begins on the day the termination of parental rights judgment is entered;
2. requires report to be made to the Superior Court every six months, rather than every year, to be consistent with the six-month requirement in probate court, but continues to require both courts to review plans at least once a year;
3. requires guardian, and not just the Department of Children and Families which is usually the statutory parent, to make six- month reports in Superior Court; and
4. requires both the Superior Court and probate court to convene a hearing to review plans, but allows them to wait 15 months from the entry of the termination judgment before they must convene an initial hearing.

EFFECTIVE DATE: October 1, 1994

**PA 94-118**

sHB 5399

*Human Services Committee*

*Appropriations Committee*

#### **AN ACT CONCERNING SUBSIDIES FOR ADOPTING PARENTS AND SPECIAL NEEDS CHILDREN**

**SUMMARY:** This act allows the Department of Children and Families (DCF) to pay its "special-need" subsidy to adoptive parents only until the child's 18th birthday. Under prior law, there was no age limit for this particular subsidy, but there were limits on two related subsidies. A special-need subsidy is a lump sum payment which is paid to parents to cover an anticipated expense resulting from the adoption of a child with special needs.

The act also requires the DCF commissioner to issue a report to the General Assembly by January 1, 1995 detailing opinions and suggestions by consumers of DCF services for special needs children, including department policy and support services.

EFFECTIVE DATE: October 1, 1994

LKF:tjo

# GLOSSARY

## A

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**ADOPTABLE PERSON**—“a person who has not been adopted but whose biological parents had their parental rights terminated under the laws of the state of Connecticut.” CONN. GEN. STATS. § 45a-743(1).

**ADOPTED PERSON**—“(A) a person who was adopted under the laws of the state of Connecticut or (B) a person who was adopted in another jurisdiction but whose biological parents have had their parental rights terminated in the state of Connecticut.” CONN. GEN. STATS. § 45a-743(2).

**ADOPTION**—“the establishment by court order of the legal relationship of parent and child . . .” CONN. GEN. STATS. § 45a-707(a).

**ADOPTION AGREEMENT**—“To complete an adoption . . . there must be an agreement to give and receive the child in adoption . . . The fundamental basis of the proceeding is the agreement. If the purported agreement is void, there is nothing which the Probate Court can approve.” Killen v. Klebanoff, 140 Conn. 111, 115-116 (1953).

**ADOPTION ASSISTANCE AGREEMENT**—“a written agreement, binding on the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.” 42 U.S.C. § 675(3).

**ADOPTION ASSISTANCE PROGRAM**—Adoption Assistance and Child Welfare Act.  
42 USC § 673(a)(2)(C )

**ADOPTION RECORDS**—Availability and confidentiality of adoption records

**ADOPTION REFORM ACT** [federal] —Child Abuse and Adoption Reform Act.  
42 U.S.C. § 5111

**ADOPTION REVIEW BOARD**—

(a). . . the adoption review board may, upon application, notice of hearing . . . for cause shown that it is in the best interest of the minor child, waive the requirement that the minor child be placed by the commissioner of children and families or a child placing agency.”

(b) Any judge of probate who has had presented to him an application for adoption which may not proceed because the child has not been so placed may apply in writing to the Adoption Review Board for a waiver of such requirement.

CONN. GEN. STATS. § 45a-764 ..... [Table 6](#)

**ADOPTION SUBSIDY REVIEW BOARD**—“There is established an Adoption Subsidy Review Board to hear appeals under this section, section 17a-118 and section 17a-120.”

Conn. Gen. Stats. § 17a-117( c). ..... [Table 8](#)

**ADULT ADOPTION**—“Any person eighteen years of age or older may, by written agreement with another person at least eighteen years of age but younger than himself, unless the other person is his or her wife, husband, brother, sister, uncle or aunt of the whole or half-blood, adopt the other person as his child, provided the written agreement shall be approved by the court of probate for the district in which the adopting parent resides or, if the adopting parent is not an inhabitant of this state, for the district in which the adopted person resides. ”  
Conn. Gen. Stats. § 45a-734(a).

**AGENCY PLACEMENT.** “An application for adoption of a minor child not related to the adopting parent shall not be accepted by the court of probate unless the child sought to be adopted has been placed by the commissioner of children and families or a child-placing agency , except as provided by section 45a-764 [Adoption Review Board], and the placement for adoption has been approved by the commissioner or a child-placing agency.”  
Conn. Gen. Stats. § 45a-727(a)(3).

## B

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**BCSE:** “the Bureau of Child Support Enforcement established within the department [of Social Services] by section 17b-179 of the Connecticut General Statutes as the IV-D agency for the State of Connecticut.” CONN. AGENCIES REGS. § 17b-179(a)-1(1).

**BIOLOGICAL PARENT**—“the biological mother or father of a person.” CONN. GEN. STATS. §45a-743(6)

**BIRTH CERTIFICATE**—a new birth certificate prepared by the Department of Public Health for an adopted person born in Connecticut. ....CONN. GEN. STATS. §7-53

**BLOOD RELATIVE [adoption]** —“descended from a common ancestor not more than three generations removed from the child . . . shall include, but not be limited to the father of an illegitimate child who had been adjudged by a court of competent jurisdiction to be the father of the child, or who has acknowledged his paternity under the provisions of section 46b-172a, with further relationship to the child determined through the father.” (emphasis added)  
CONN. GEN. STATS. § 45a-724 (a)(3).

## C

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**CHILD ABUSE AND ADOPTION REFORM ACT.** 42 U.S.C. § 5111

**CHILD IN FOSTER CARE**—“A child residing with an adult who is approved by the Department of Children and Families (DCF) to stand in loco parentis for the child and on whose behalf foster care payments are being made by DCF.” CONN. AGENCIES REGS. § 8-210b-9a.

**CHILD-PLACING AGENCY**—“any agency within or without the state of Connecticut licensed or approved by the Commissioner of Children and Families in accordance with sections 17a-149 and 17a-151, and in accordance with such standards which shall be established by regulations of the Department of Children and Families . . . .” CONN. GEN. STATS. § 17a-93(g).

**CONFIDENTIALITY OF AND ACCESS TO RECORDS—**

- Adoption records. CONN. GEN. STATS. §§ 45a-743 to 45a-757.

## F

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**FOSTER PARENT**—"Person responsible for the health, welfare or care of a child or youth . . . ." CONN. GEN. STATS. § 17a-93(l).

## G

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**GUARDIAN**—"Person responsible for the health, welfare or care of a child or youth . . . ." CONN. GEN. STATS. § 17a-93.

**GUARDIANSHIP OF A MINOR**—" . . . refers to the obligation of care and control, the right to custody and the duty and authority to make major decisions affecting such minor's welfare, including, but not limited to, consent determinations regarding marriage, enlistment in the armed forces and major medical, psychiatric or surgical treatment . . . ." CONN. GEN. STATS. § 17a-93(d).

## I

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**INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN**—CONN. GEN. STATS. §17a-175.  
[Adoption § 10 International and out of state adoptions in Connecticut.](#)

## O

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**OPEN ADOPTION**—"The plaintiff does not seek to 'open,' to set aside or to diminish in any way the adoptive process that has substituted the defendants as the legal parents of the child. The plaintiff's rights are not premised on an ongoing genetic relationship that somehow survives a termination of parental rights and an adoption. **Instead the plaintiff is asking us to decide whether, as an adult who has an ongoing personal relationship with the child, she may contract with the adopting parents, prior to adoption, for the continued right to visit with the child, so long as that visitation continues to be in the best interest of the child.**"[emphasis added]. Michaud v. Wawrack, 209 Conn. 407, 412-413 (1988)

## P

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**PROSPECTIVE ADOPTIVE FAMILY**—"means a person or persons, licensed by the Department of Children and Families or approved by a licensed child-placing agency, who is awaiting the placement of, or who has a child or children placed in their home for the purposes of adoption." CONN. GEN. STATS. § 17a-93(n)

## R

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**RELATIVE**—“any person descended from a common ancestor, whether by blood or adoption, not more than three generations removed from the child.” CONN. GEN. STATS. § 45a-743 (7).

## S

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**STATUTORY PARENT** [adoption] —“the Commissioner of Children and Families or that child-placing agency appointed by the court for the purpose of giving a minor child or minor children in adoption . . .” CONN. GEN. STATS. 17a-93(f). *See also* §§ 45a-707(7), 45a-717, 45-718. Also:

- [Table 2: Who May Give a Child in Adoption?](#)
- [Table 3: Statutory Parent and Adoption](#)

**STRANGER TO THE ADOPTION DOCTRINE**—“doctrine under which a testator or settlor other than the adopting parent is presumed not to intend to share his bounty with adopted child.” Schapira v. Connecticut Bank & Trust Co., 204 Conn. 450, 458, 528 A.2d 367 (1987). *Statutory extinguished by §45-65a in 1959 (applicable to wills and trusts instruments subsequent to October 1, 1959).*

## W

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**WRONGFUL ADOPTION**—“. . . fraudulent concealment by intermediaries (adoption agencies . . .) of material facts about a child or her biological family—usually a hereditary physical or mental condition—which, if disclosed to the prospective adoptive parents, would have resulted in the adoption not taking place.” Juman v. Louise Wise Services, 608 N.Y.S.2d 612, 614-615 (1994).

## Y

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**Youth**—“any person sixteen to eighteen years of age” CONN. GEN. STATS. §17a-1(e).

*In contrast to:* **Child**—“any person under sixteen years of age” CONN. GEN. STATS. §17a-1(d)

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